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THE REVISED STATUTES

OF THE
STATE OF NEW YORK,

AS ALTERED BY SUBSEQUENT LEGISLATION;

TOGETHER WITH THE

Other Statutory Provisions of a General and Permanent Nature,

(Except the Code of Civil Procedure, the Code of Criminal Procedure, and the Penal Code.)

PASSED FROM THE YEAR 1778

TO FEBRUARY 1, 1889,

And Now in Force;

ARRANGED IN CONNECTION WITH THE SAME OR KINDRED SUBJECTS IN THE REVISED STATUTES;

TO WHICH ARE ADDED

AN ANALYSIS OF THE ENTIRE WORK; REFERENCES TO JUDICIAL DECISIONS UPON
THE DIFFERENT ENACTMENTS; EXPLANATORY NOTES; A FULL AND COM-
PLETE ALPHABETICAL INDEX; AND AN INDEXED TABLE OF THE
STATUTES CONTAINED IN THE WORK.

EDITED BY

MONTGOMERY H. THROOP,

COUNSELLOR AT LAW,

EDITOR OF THE SEVENTH EDITION.

EIGHTH EDITION.

VOLUME I.

CONTAINING THE ARTICLES OF CONFEDERATION, AND THE CONSTITUTION, AS NOW IN FORCE, OF THE UNITED STATES OF
AMERICA; THE SEVERAL SUCCESSIVE CONSTITUTIONS OF THE STATE OF NEW YORK, WITH THE AMENDMENTS
THERE TO; THE ACTS RELATING TO THE REVISED STATUTES AND THE FIRST NINE
CHAPTERS OF THE FIRST PART OF THE REVISED STATUTES, AND
THE GENERAL LAWS CONNECTED THEREWITH.

1889.

BANKS & BROTHERS, LAW BOOK PUBLISHERS,
ALBANY, N. Y. NEW YORK.

Entered according to act of Congress, in the year one thousand eight hundred and fifty-nine,
By BANKS & BROTHERS,
in the Clerk's office of the District Court of the Northern District of New York.

Entered according to act of Congress, in the year one thousand eight hundred and seventy-five,
By BANKS & BROTHERS,
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June 1, 1892

Entered according to act of Congress, in the year one thousand eight hundred and eighty-two,
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By BANKS & BROTHERS,
in the office of the Librarian of Congress, at Washington.

State of New York,
OFFICE OF THE SECRETARY OF STATE, } ss.

I, FREDERICK COOK, Secretary of State, certify that so much of the matter contained in the text of this edition of the Revised Statutes as purports to be a copy thereof, is a correct transcript of the text of the Revised Statutes, as originally published under the authority of the State, except such typographical errors in the original as have been corrected in the copy, and except such parts as have been altered by acts of the Legislature, and that with respect to such parts it conforms to the acts by which such alterations have been made.

IN WITNESS WHEREOF, I have hereto set my signature, at the city of Albany, this first day of March, 1889.

FREDERICK COOK,
Secretary of State.

1 R. S.

PECULIAR FEATURES

OF THE

SEVENTH AND EIGHTH EDITIONS OF THE REVISED STATUTES.

(1.) In these, as in the former editions, the provisions of the Revised Statutes which have been expressly amended are made to conform to the latest amendatory acts, and provisions which have been expressly repealed are omitted; but the text, where it has not been expressly altered by subsequent legislation, is given, with scrupulous accuracy, precisely as it was enacted by the legislature, and without attempting (as was done in each of the former editions subsequent to the third) to express, by alterations of the text, the editor's opinion as to the present effect of any provision.

(2.) In general, the entire text of the Revised Statutes has been given, as it now is, noting, without omitting, provisions supposed to be repealed by implication. In a few instances, exceptions have been made to this rule. The only one of these which is of much importance is the omission, in title 4 of chapter 2 of part 1, of the detailed description of the boundaries of the several towns, for reasons explained in the note at the foot of page 276. Occasionally, also, a provision has been omitted, which was so manifestly repugnant to subsequent statutes or constitutional amendments, that there appeared to be no room for reasonable doubt that it was abrogated. Excisions of this character have been made rarely and cautiously; and in each instance a reference has been made to the inconsistent controlling provisions.

(3.) In these editions, although the acts, other than the R. S., are arranged under the captions of the chapters, titles, and articles of the R. S., relating to the subject matter thereof, and, in cases where there are no such appropriate captions, under new titles and articles added to the proper chapters, yet they are not intermingled with the provisions of the R. S., with sectional numbers altered, so as to number them continuously, as was done in the former editions, to the infinite bewilderment and confusion of those having occasion to examine or cite the statutes. In these editions the two classes of statutes are not only separated, but distinguished by the use of different styles of type, and a dif-

viii PECULIAR FEATURES OF SEVENTH AND EIGHTH EDITIONS.

ferent arrangement of the marginal notes and authorities cited ; the original sectional numbers of each class are preserved ; and each of the session laws retains its proper caption.

Also the numbers and arrangement of the titles and articles of the R. S. have not been disturbed, the additional titles and articles, which it was necessary to insert, having been designated as supplementary, and so arranged as to preclude the possibility of any confusion in that respect.

(4.) In these editions, the original paging is not only preserved in the margin of the pages which contain the text of the R. S., but it is also given in full and consecutively in the analysis, so that a person searching for a provision of the R. S., cited by the volume and page of the first edition, can easily and immediately find its place by reference to the analysis.

(5.) Local statutes have been, as a rule, excluded from this work, whereas the former editions usually gave, at length, all local statutes which created exceptions to a general statute. Certainly the insertion of the local acts of that description would have rendered this work more perfect, and the editor has omitted them with great reluctance ; but they have now become so numerous and voluminous, that an attempt to insert them in this work would have so swollen its bulk, as very seriously to affect its practical utility.

Occasionally the editor has relaxed the rigidity of the rule excluding local laws, where the addition of a few short acts of that character (often cited only by their titles) has enabled him to complete the legislation upon some subject of great general importance. For these few variations from his general rule he must perhaps bear the accusation of inconsistency ; but if it is understood that local laws do not belong to this work, no just disappointment will occur to any reader who fails to find a particular local law therein. If the editor can in every case avoid a similar reproach, his ambition in preparing this work will be fully satisfied.

MONTGOMERY H. THROOP.

302 STATE STREET, ALBANY, }
February 15, 1889. }

PREFACE

TO THE EIGHTH EDITION OF THE REVISED STATUTES.

This edition aims to present the entire body of the statute law of the State of New York, of a general and permanent character, except the Code of Civil Procedure, the Code of Criminal Procedure and the Penal Code. As numerous editions of those Codes have been published, some of them elaborately annotated and expensive, which the members of the legal profession have extensively purchased, it was deemed only just to the latter, that this work should be published in such a form, that they would not be compelled to purchase anew the three Codes, in order to procure the remainder of this compilation.

The Revised Statutes were enacted in instalments; part first and chapters second to eighth of part second on the 4th of December, 1827, and chapter first of part second, and the whole of parts third and fourth on the 10th of December, 1828. They were made to take effect, chapters 6, 8, 9, 10, 13, 14, title 2 of chapter 15, and chapters 16 and 18 of part first, on the 1st of January, 1828; chapter 17 of part first on the 1st of May, 1828; and the remainder of the Revised Statutes on the 1st of January, 1830.

The first is the only official edition of the Revised Statutes which has ever been published; it was printed by the State under the direction of the revisers, the official certificate prefixed to the first volume being dated January 31, 1829; that prefixed to the second volume, June 5, 1829; and that prefixed to the third volume, September 10, 1830. In preparing that edition the revisers were authorized to make some important changes, not only in the numbers of the sections but even in the text, the better to carry into effect the intention of the legislature in enacting various amendatory acts. See L. 1828, first session, ch. 321, §§ 1, 2 and 3; and L. 1828, second session, ch. 20, § 33.

Even before the first edition was issued, the legislature began to amend or otherwise alter the Revised Statutes. Most of the changes made in 1829

were taken into the first edition ; but in 1830, after the publication of the first and second volumes of that edition, the legislature not only enacted various statutes, changing, without expressly referring to, particular provisions of the Revised Statutes, but by different acts passed during that year expressly amended sixty sections, repealed twenty-four sections, and added twenty-two new sections. In the most voluminous of these amendatory acts, L. 1830, ch. 320, it is provided by § 67, that "in every publication of the Revised Statutes hereafter to be made, the amended and additional provisions herein contained, shall be inserted in their proper places as parts of the said statutes, and in the manner hereinbefore prescribed ; and such alterations as may be requisite, shall be made under the direction of the secretary of State, in the numbering of the sections in every title of the said statutes affected by this act."

Another act of the same year, L. 1830, ch. 259, after providing that any person might publish the Revised Statutes, and the work so published might be read in evidence if accompanied with a certificate of the secretary of State or of two of the revisers, enacts that all editions so printed shall be paged in conformity to the first edition.

The second edition of the Revised Statutes was published by the revisers in 1836. It was unofficial, and strictly a private enterprize. In that edition the subsequent amendments to the Revised Statutes were added to or incorporated into the text ; the separate acts passed since their original enactment were incorporated into the chapters, titles and articles of the Revised Statutes ; new titles and articles were added as required ; and the original numbers of the sections of the Revised Statutes were changed accordingly ; as it appears that the legislature contemplated, when it enacted the two statutes of 1830, just cited.

The third edition of the Revised Statutes was also prepared by the revisers as a private enterprize. The first and second volumes were published in 1846 ; the third in 1848. In this edition the plan of the second edition was closely followed, although the increased bulk of the subsequent legislation already led to some inconveniences from its incorporation with the Revised Statutes, and the consequent changing of the sectional numbers of the latter, and the addition of new captions.

The fourth edition was prepared by two eminent lawyers, the late Hiram Denio and William Tracy, and was published in 1852. The plan of the second and third edition was followed, although the great mass of subsequent

legislation increased proportionately the inconveniences which it caused. But a new feature, which to many was even more objectionable, appeared in this edition. The constitution of 1846, and the legislation immediately following the same, by abolishing many offices, especially of a judicial character, and creating new offices with the same powers, etc., and by other similar radical changes in the constitution and laws of the State, rendered many enactments contained in the former statutes, particularly in the Revised Statutes, literally inapplicable, their provisions being applied to the new state of things, by certain general statutes. In the fourth edition, the editors altered the text of those provisions of the Revised Statutes and other former statutes, so as to conform it to the new state of things, specifying in foot notes the alterations so made by them.

The fifth edition was prepared by Messrs. Amasa J. Parker, George Wolford and Edward Wade, and published in 1859. The sixth was prepared by Mr. George W. Cothran, and published in 1875. Each of these editions was prepared upon the plan of the fourth, including the unauthorized alterations of the text ; and although each was very ably edited, the ability and industry of the editors were unable to overcome or materially diminish the great inconveniences proceeding from the radical defects of the plan itself, as applied to an enormous mass of laws, whereof the Revised Statutes had become but a small proportion.

The seventh edition, published in 1882, was prepared by the undersigned, upon a different plan, which has been followed in this edition. The manner in which the undersigned has endeavored, in the seventh and eighth editions, to overcome the inconveniences referred to, is hereinbefore stated in a separate paper. He is fully sensible of the fact that his plan is open to some objections ; but upon the whole he believes it to be the only one, by which the enormous mass of legislation can be set before the public, in a form which will enable the reader to ascertain most readily the present state of the law, upon any particular subject of inquiry.

In preparing a work of this character, it often becomes the editor's duty to decide as to the effect of a statute amending a former statute, or making other provisions for a case provided for therein, where a later statute repeals or amends the amendatory statute ; and also, in some cases, where a still later statute amends the original statute, or a statute amends a former statute which has been expressly appealed.

Apart from the general principles of law, respecting the construction and

effect of statutes, our courts have laid down rules which govern in most of the cases stated.

The leading case upon this question is *People v. Supervisors of Montgomery*, 67 N. Y., 109, where it was substantially held, that the amendment of a statute, by declaring that it shall read as prescribed by the amendatory statute, although not a repeal of the original statute, merges the latter in the amendatory statute, so that the former has no longer any distinct validity, with respect to future transactions; and that a subsequent repeal of the amendatory statute does not revive the original statute, but both fall together. These principles have been re-affirmed and applied in *Knox v. Baldwin*, 80 N. Y., 610; *Victory Webb, etc., Co. v. Beecher*, 97 N. Y., 651; *Nash v. White's Bank of Buffalo*, 105 N. Y., 243; In re *Miller*, 110 N. Y., 216, and numerous other cases in the courts of original jurisdiction.

But such an amendatory statute has no retroactive effect, and does not affect transactions completed, or rights accrued, or liabilities incurred under the original statute, before the enactment of the later statute; except penalties and the like, which are abrogated even where an action therefor has been commenced before the enactment of the later statute: *Goillotel v. Mayor, etc.*, 87 N. Y., 441; *Victory Webb, etc., Co., v. Beecher*, 97 N. Y., 651; *Nash v. White's Bk. of Buffalo*, 105 N. Y., 243; In re *Miller*, 110 N. Y., 216.

A subsequent statute, covering the same matter as a prior statute, effects an implied repeal of the latter, where it is evident that the subsequent statute was intended as a substitute for the former statute, in the cases to which it applies, although the two statutes are not in express terms repugnant: *Heckmann v. Pinkney*, 81 N. Y., 211; *People v. Gold, etc., Telegraph Co.*, 98 N. Y., 67; *People v. Jaehne*, 103 N. Y., 82.

With respect to the case where a statute, which has been repealed, either directly or by the repeal of an amendatory statute, is amended by a still later statute, the editor has treated the later amendatory act as in effect a new statute. This conclusion appears to be, not only a necessary result from the principles above stated, but in harmony with the ruling in *Hills v. Peekskill Savings Bank*, 26 Hun, 161, which was not affected by the reversal of the judgment in that case, as reported in 101 N. Y., 490.

MONTGOMERY H. THROOP.

302 STATE STREET,

ALBANY, February 15, 1889.

EXTRACTS

FROM THE PREFACE TO THE FIRST EDITION OF THE REVISED STATUTES.

* * * * *

The public statutes of this State, in force at the time of this revision, constitute the basis of the work, and have generally been incorporated in it, although their original form has seldom been preserved. For the purpose of simplifying their language, supplying their omissions, and remedying other defects; and above all, of presenting them in the systematic arrangement which was the great object of the legislature, it became indispensable to break up their long and sometimes complicated sections—to separate those provisions which related to any particular topic, from others with which they were connected—and to write anew every section contained in the Revised Statutes.

Several of the former statutes, having been expressly or impliedly abrogated by the legislature, are wholly omitted. Those which have been retained and consolidated in this work, have been materially modified. Their details have been perfected; they have been conformed in express terms, to the construction given to them by the decisions of our courts; and in many cases new provisions have been introduced, essentially changing their principles. In numerous instances, also, the rules of the common law have been reduced to a written text, and inserted in their proper place in connexion with the statutory provisions on the subject to which they relate; whilst in other instances those rules have been enlarged, modified or varied, the more fully to conform them to the nature of our government, and the habits and exigencies of the people.

* * * * *

Throughout the work, references will be found to the statutes heretofore passed, containing provisions analogous to those in the Revised Statutes.* But it must not be inferred from any such reference that the former statute has been

* Those references have been preserved in the eighth edition. [EDITOR EIGHTH ED'N.]

literally copied, or even substantially adopted. On the contrary, whenever a provision on the same subject could be found in a former statute, it has been invariably referred to, for the purpose of enabling the reader to ascertain the prior law ; though in many cases that law is either only partially retained, or is wholly abrogated, or a principle directly the reverse is adopted, by the provision to which the reference is subjoined. In most cases a reference is added to each section, indicating the particular part of the former statute upon which the section is founded. But where a chapter, title, or article, or several sections, are founded upon a single act, that act, only, has sometimes been referred to, without designating its particular parts. With these exceptions, those sections of the Revised Statutes to which no references are subjoined, will generally be found to be new as statutory provisions.

* * * * *

JOHN DUER.

BENJ. F. BUTLER.

JOHN C. SPENCER.

ALBANY, *January*, 1829.

ANALYSIS

OF THE SEVERAL CHAPTERS, TITLES AND ARTICLES EMBRACED IN THIS EDITION OF THE REVISED STATUTES, WHICH CONTAINS THE SAID REVISED STATUTES, AND ALL OTHER STATUTORY PROVISIONS OF A GENERAL AND PERMANENT CHARACTER,

AS IN FORCE FEBRUARY 1, 1889,

EXCEPT THE CODE OF CIVIL PROCEDURE, THE CODE OF CRIMINAL PROCEDURE, AND THE PENAL CODE.

[MEMORANDUM.—The analysis of the Revised Statutes, as originally enacted, is preserved in the following pages, without any alterations, other than those required to conform the same to express enactments repealing, or changing the captions of, particular chapters, titles, or articles. That portion of this analysis is printed in Roman type; those portions which relate to enactments not forming a part of the Revised Statutes, are printed in italics. In the left hand column is preserved the original paging of the R. S.]

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ACCEPTANCE AND RATIFICATION

BY THE

STATE OF NEW YORK

OF THE

Articles of Confederation of the United States of America.

LAWS OF THE STATE OF NEW YORK, PASSED AT THE FIRST SESSION OF THE LEGISLATURE, HELD AT POUGHKEEPSIE, IN DUTCHESS COUNTY.

L. 1778, Chap. III.

AN ACT of Accession to and Approbation of, Certain proposed Articles of Confederation and perpetual Union, between the United States of America, and to authorize the Delegates of the State of New-York to ratify the same on the part and behalf of this State, in the Congress of the said United States.

PASSED 6th February, 1778.

WHEREAS, The Freedom, Sovereignty and Independence of the said States which, with a Magnanimity, Fortitude, Constancy and Love of Liberty, hitherto unparalleled, they have asserted and maintained against their cruel and unrelenting Enemies, the King and Parliament of the Realm of Great Britain, will for their lasting and unshaken Security, in a great measure depend, under God, on a wise, well-concerted, intimate and equal Confederation of the said United States; and whereas, the Honorable the Congress of the said United States have transmitted, for the Consideration of the Legislature of this State, and for their Ratification in case they shall approve of the same, the following Articles of Confederation, to wit:

ARTICLES OF CONFEDERATION, &c.

TO ALL TO WHOM THESE PRESENTS SHALL COME,

We, the undersigned, Delegates of the States affixed to our names, send greeting:

WHEREAS, The Delegates of the United States of America in Congress assembled did, on the fifteenth day of November, in the year of our Lord one thousand seven hundred and seventy-seven, and in the second year of the independence of America, agree to certain articles of confederation and perpetual union between the states of New-Hampshire, Massachusetts Bay, Rhode-Island and Providence Plantations,

Articles of confederation.

Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, in the words following, viz. :

Articles of Confederation and perpetual Union between the States of New-Hampshire, Massachusetts Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia.

Style of the confederacy.

ARTICLE 1. The style of this confederacy shall be, "The United States of America."

Rights retained by the states.

ART. 2. Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in Congress assembled.

Objects of the confederacy.

ART. 3. The said states hereby severally enter into a firm league of friendship with each other for their common defence, the security of their liberties, and their mutual and general welfare; binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

Mutual Privileges of the free inhabitants of the several states.

ART. 4. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state to any other state, of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction, shall be laid by any state on the property of the United States or either of them.

Persons guilty of crimes to be given up.

If any person guilty of or charged with treason, felony, or other high misdemeanor, in any state, shall flee from justice, and be found in any of the United States, he shall, upon demand of the governor or executive power of the state from which he fled, be delivered up, and removed to the state having jurisdiction of his offence.

Faith to be given to the acts of each state.

Full faith and credit shall be given in each of these states to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

Delegates to be annually appointed, &c. Each state may recall its delegates, &c.

ART. 5. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in congress on the first Monday in November, in every year, with a power reserved to each state to recall its delegates or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

Number and qualifications of delegates

No state shall be represented in congress by less than two nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Delegates how maintained.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

Each state to have one vote.

In determining questions in the United States in congress assembled, each state shall have one vote.

Privileges of members of congress.

Freedom of speech and debate in congress shall not be impeached or questioned in any court or place out of congress; and the members of congress shall be protected in their persons from arrests and imprison-

ments, during the time of their going to and from and attendance on congress, except for treason, felony, or breach of the peace.

ART. 6. No state, without the consent of the United States in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state; nor shall the United States in congress assembled, or any of them, grant any title of nobility.

No state to negotiate with foreign powers. Persons holding offices not to accept presents. Congress not to grant titles of nobility. Treaties between two or more states prohibited. No state to lay interfering imposts or duties.

No two or more states shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties entered into by the United States in congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by congress to the courts of France and Spain.

Regulations respecting naval and military establishments, the militia, &c.

No vessels of war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary by the United States in congress assembled for the defence of such state or its trade; nor shall any body of forces be kept up by any state in time of peace, except such number only as, in the judgment of the United States in congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and have constantly ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No state shall engage in any war without the consent of the United States in congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the United States in congress assembled can be consulted; nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in congress assembled shall determine otherwise.

No state, except in certain cases, to engage in war; nor grant commissions to armed vessels, &c.

ART. 7. When land forces are raised by any state for the common defence, all officers of or under the rank of colonel, shall be appointed by the legislature of each state respectively, by whom such forces shall be raised, or in such manner as such state shall direct; and all vacancies shall be filled up by the state which first made the appointment.

Certain officers of the land forces, to be appointed by each state.

ART. 8. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the value of all land within each state granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in congress assembled shall from time to time direct and appoint.

All charges of war, &c. to be defrayed out of a common treasury. Treasury how supplied.

Taxes to be levied by the states.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states, within the time agreed upon by the United States in congress assembled.

Powers of the congress.

ART. 9. The United States in congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article: of sending and receiving ambassadors: entering into treaties and alliances; provided, that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever: of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated: of granting letters of marque and reprisal, in times of peace: appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures; provided, that no member of congress shall be appointed a judge of any of the said courts.

Members of congress not to be judges of admiralty courts.

Congress to decide disputes between states.

The United States in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: whenever the legislative or executive authority

Mode of proceeding therein.

or lawful agent of any state in controversy with another shall present a petition to congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties, by their lawful agents, who shall then be directed to appoint by joint consent commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as congress shall direct, shall, in the presence of congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges,

Judges to be appointed by lot.

to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons which congress shall judge sufficient, or being present shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf

Opinions of a majority of judges to prevail, &c.

of such party absent or refusing; and the judgment and sentence of the court to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear, or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings, being in either case transmitted to congress, and lodged among the acts of congress for the security of the parties concerned: provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the state, where the cause shall be tried,

Judgment to be final and conclusive.

“well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward.”

Sentence and proceedings, where deposited.

Oath to be taken by the judges.

“well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward.”

provided also, that no state shall be deprived of territory for the benefit of the United States. Proviso.

All controversies concerning the private right of soil, claimed under different grants of two or more states, whose jurisdiction as they may respect such lands and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states. Congress also to determine controversies concerning private rights of soil.

The United States in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states: fixing the standard of weights and measures throughout the United States: regulating the trade and managing all affairs with the Indians not members of any of the states; provided that the legislative right of any state within its own limits be not infringed or violated: establishing and regulating post-offices from one state to another throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office: appointing all officers of the land forces in the service of the United States, excepting regimental officers: appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States: making rules for the government and regulation of the said land and naval forces, and directing their operations. Further powers of congress.

The United States in congress assembled shall have authority to appoint a committee to sit in the recess of congress, to be denominated "a committee of the states;" and to consist of one delegate from each state, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States, under their direction; to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years: to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses: to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted: to build and equip a navy: to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled: but if the United States in congress assembled, shall, on consideration of circumstances, judge proper that any state should not raise men or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped, in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same; in which case they shall raise, officer, clothe, arm, and equip, as many of such extra number as they judge can be safely spared. And the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled. Congress to appoint a committee of the states.
Additional powers of congress enumerated.

Congress not to exercise certain powers unless by the votes of nine states.

The United States in congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy unless nine states assent to the same; nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in congress assembled.

Questions how decided.

Adjournment, and other proceedings, of congress.

The congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months; and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

Committee of the states may be vested with certain powers.

ART. 10. The committee of the states, or any nine of them, shall be authorized to execute in the recess of congress, such of the powers of congress as the United States in congress assembled, by the consent of nine states, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states in the congress of the United States assembled is requisite.

Canada may be admitted into the confederacy.

ART. 11. Canada acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to, all the advantages of this union; but no other colony shall be admitted into the same unless such admission be agreed to by nine states.

Payment of debts assumed.

ART. 12. All bills of credit emitted, moneys borrowed, and debts contracted, by or under the authority of congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof of the said United States and the public faith are hereby solemnly pledged.

Obligations imposed by the confederation.

ART. 13. Every state shall abide by the determination of the United States in congress assembled, on all questions which, by this confederation, are submitted to them. And the articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a congress of the United States, and be afterwards confirmed by the legislature of every state.

Union perpetual, &c.

Ratification.

And whereas it has pleased the Great Governor of the world to incline the hearts of the legislatures we respectively represent in congress, to approve of and to authorize us to ratify the said articles of confederation and perpetual union: KNOW YE, That we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained; and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in congress

ARTICLES OF CONFEDERATION.

assembled, on all questions which, by the said confederation, are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent; and that the union shall be perpetual.

In witness whereof, we have herennto set our hands, in congress. Done at Philadelphia, in the state of Pennsylvania, the ninth day of July, in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the independence of America.

On the part and behalf of the state of New-Hampshire.

Josiah Bartlett,

John Wentworth, Jun., Aug. 8, 1778.

Signatures
to the act
of confed-
eration.

On the part and behalf of the state of Massachusetts Bay.

John Hancock,
Samuel Adams,
Elbridge Gerry,

Francis Dana,
James Lovell,
Samuel Holten.

On the part and in behalf of the state of Rhode-Island and Providence Plantations.

William Ellery,
Henry Marchant,

John Collins.

On the part and behalf of the state of Connecticut.

Roger Sherman,
Samuel Huntington,
Oliver Wolcott,

Titus Hosmer,
Andrew Adams.

On the part and behalf of the state of New-York.

Jas. Duane,
Fra. Lewis,

Wm. Duer,
Gouv. Morris.

On the part and in behalf of the state of New-Jersey.

Jno. Witherspoon,

Nath. Scudder, Nov. 26, 1778.

On the part and behalf of the state of Pennsylvania.

Robt. Morris,
Daniel Roberdeau,
Jona. Bayard Smith,

William Clingan,
Joseph Reed, 22d July, 1778.

On the part and behalf of the state of Delaware.

Tho. M'Kean, Feb. 13, 1779.
John Dickinson, May 5th, 1779.

Nicholas Van Dyke.

On the part and behalf of the state of Maryland.

John Hanson, March 1, 1781.

Nathaniel Carroll, do.

On the part and behalf of the state of Virginia.

Richard Henry Lee,
John Banister,
Thomas Adams,

Jno. Harvie.
Francis Lightfoot Lee.

On the part and behalf of the state of North-Carolina.

John Penn, July 21st, 1778.
Corns. Harnett,

Jno. Williams.

On the part and behalf of the state of South-Carolina.

Henry Laurens,
William Henry Drayton,
Jno. Mathews,

Richard Hutson,
Thos. Heyward, Jun.

ARTICLES OF CONFEDERATION.

On the part and behalf of the state of Georgia.

Jno. Walton, 24th July, 1778. Edwd. Langworthy.
Edwd. Telfair,

A. D. 1778.
Inde. U. S.
II.

Approba-
tion of
articles of
confedera-
tion.

And whereas the senate and assembly of this state of New York, in legislature convened, have separately taken the said several articles of confederation into their respective, most deliberate and mature consideration; and by their several and respective resolutions, deliberately made and entered into for the purpose, have fully and entirely approved of the same:

Ib.

In order therefore, That such approval may be published and made known to the whole world, with all the solemnities of law, and that all the subjects of this state, and others inhabiting and residing therein, from time to time, and at all times thereafter, as long as the said confederation shall subsist and endure, may be bound by, and held to the due observance of the said articles of confederation, as a law of this state, if the same shall be duly ratified by all the said United States in congress assembled.

Be it enacted and declared by the people of the state of New York, represented in Senate and Assembly, and it is hereby enacted and declared by the authority of the same, That the said several above recited articles of confederation, and all and singular the clauses, matters and things in the same contained, be, and the same are hereby fully accepted, received and approved of, for and in behalf of the people of this state.

And to the end that the same may, with all due form and solemnity, be ratified and confirmed by this state in congress.

Power to
delegates
to ratify
the same in
congress.

Be it further enacted by the authority aforesaid, That the delegates of this state, in the said congress of the United States of America, or any two of the said delegates, shall be, and hereby are fully authorized, empowered and required, wholly, entirely and absolutely, for and in behalf of the people of this state, and in such manner and under such formalities, as shall be determined in congress, to ratify and confirm, all and every of the said above recited articles of confederation, and all and singular the clauses, matters and things in the same contained; and that an exemplification of this act, tested by his excellency the governor, or the lieutenant-governor, or president of the senate of this state, for the time being administering the government, and authenticated with the great seal of this state, shall be full and conclusive evidence of this act.
Provided always:

Not to be
binding till
all the
other states
ratify.
This pro-
viso was
altered, L.
1779, ch. 30.

That nothing in this act, or the said above recited articles of confederation contained, nor any act, matter or thing, to be done and transacted by the delegates of this state in congress, in and concerning the premises or any part thereof, shall bind or oblige, or be construed, deemed or esteemed to bind or oblige the government, legislature, people, subjects, inhabitants or residents of this state, untill the said above recited articles of confederation shall have been duly ratified and confirmed by, or in behalf of all the said United States in congress assembled; anything herein, or in the said above recited articles of confederation contained to the contrary thereof, in any wise notwithstanding.

[NOTE—From the circumstance of delegates from the same state having signed the articles of confederation at different times, as appears by the dates, it is probable they affixed their names as they happened to be present in congress, after they had been authorised by their constituents.]
The preceding copy of the articles of confederation, and the foregoing note, are taken from pages 13-20 of the first volume of the edition of the Laws of the United States, published by Messrs. Bioren, Duane and Weightman, in 1815, under the authority of an act of congress.
The above articles of confederation continued in force until the 4th day of March, 1789, when the constitution of the United States took effect.]

L. 1779, Chap. XXX.

A SUPPLEMENTARY ACT, entitled an act of accession to and approbation of certain proposed articles of confederation and perpetual union, between the United States of America, and to authorize the delegates of the State of New York to ratify the same on the part and behalf of this State, in the Congress of the said United States.

PASSED 23d October, 1779.

WHEREAS, In and by a certain act of the legislature of this state of New York, entitled, "An act of accession to, and approbation of, certain proposed articles of confederation and perpetual union between the United States of America, and to authorize the delegates of the state of New York to ratify the same on the part and behalf of this state, in the congress of the said United States," among other things reciting certain articles of confederation and perpetual union between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia, transmitted by the honorable congress of the United States of America, for the consideration of the legislature of this state, and for their ratification, in case they should approve of the same. *It is enacted*, That the said several articles of confederation, and all and singular the matters, clauses and things in the same contained, be, and the same are thereby fully accepted, received and approved of, for, and in behalf of the people of this state; and to the end that the same might, with all due form and solemnity, be ratified and confirmed by this state in congress; *It is further enacted*, That the delegates of this state, in the said congress of the United States of America, or any two of the said delegates should be, and thereby are fully authorized, empowered and required, wholly, entirely and absolutely, for and in behalf of the people of this state, and in such manner, and under such formalities as shall be determined in congress, to ratify and confirm all and every the said articles of confederation, and all and singular the clauses, matters and things therein contained: *provided always*, that nothing in that act, or the said therein recited articles of confederation contained, nor any act, matter, or thing to be done and transacted by the delegates of this state in congress, in and concerning the premises or any part thereof, should bind or oblige, or be construed, deemed or esteemed to bind or oblige the government, legislature, people, subjects, inhabitants, or residents of this state, until the said above recited articles of confederation shall have been ratified and confirmed, by or in behalf of all the said United States in congress assembled, as by the said act relation thereunto being had, may more fully appear. *And whereas*, It may become essential to the permanent welfare and security of these United States, that the said articles of confederation and perpetual union should be ratified and carried into effect by such of the said states as have acceded or shall accede thereto, although the same should not receive the immediate approbation and sanction of all: *Be it therefore enacted by the people of the state of New York represented in senate and assembly, and it is hereby enacted by the authority of the same*: That full power and authority shall be, and is hereby granted to the delegates of this state, in the congress of the United States of America, or any three of them; and the said delegates, or any three of them, are hereby accordingly authorized and empowered, for and in behalf of this state, to unite for the final accom-

Preamble reciting in part, the act for ratifying the confederation on the part of this state.

With proviso not to be binding on this state until ratified by all the other states

Power given to any three of the delegates to unite with any of the other states consenting and lawfully authorized, for final accomplishment of the confederation.

And to ratify and confirm the same in form, which shall be binding on this state as long as the confederation shall endure.

plishment of the said confederation and perpetual union, with such and so many of the delegates of the said United States respectively, who may for that purpose be lawfully authorized, as they shall in their wisdom judge proper and competent for mutual defense and permanent security; and thereupon in such manner and such formalities as may be deemed expedient, shall ratify and confirm all and every the said articles of confederation and perpetual union. And this state and the inhabitants and residents within the same, shall at all times thereafter be bound by, and held to, the due observance of the said articles, and every clause thereof, as long as the said confederation shall subsist and endure; any thing in the said recited act of the legislature of this state, or in the said articles of confederation to the contrary notwithstanding.

L. 1785, Chap. LXIII.

AN ACT acceding to the recommendation of Congress on the 18th of April, 1783, relative to the eighth Article of Confederation and perpetual union of the United States of America.

PASSED 9th April, 1785.

SECTION 1. *Be it enacted by the People of the State of New York represented in Senate and Assembly, and it is hereby enacted by the authority of the same :*

That so much of the eighth of the articles of confederation and perpetual union between the thirteen states of America, as is contained in the words following, to wit: "All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the value of all land within each state, granted to or surveyed for any person as such lands and the buildings and improvements thereon, shall be estimated according to such mode as the United States in congress assembled, shall from time to time direct and appoint," shall be and the same is hereby revoked and made void, so far as the same extended to this state.

And the delegates to subscribe and ratify the words herein mentioned in the place thereof.

§ 2. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the delegates for the time being, representing this state in the congress of the United States, or any three of them, and they are hereby required to subscribe and ratify the following, as part of the said instrument of union, and in place of the part revoked and made void as aforesaid, to wit: "That all charges of war, and all other expenses that have been or shall be incurred for the common defense or general welfare, and allowed by the United States in congress assembled, except so far as shall be otherwise provided for, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the whole number of white and other free citizens and inhabitants of every age, sex and condition, including those bound to servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians, not paying taxes in each state;" which said alteration when so subscribed and ratified, shall be deemed and held to be as sufficient and valid for the purposes therein mentioned, as the part hereinbefore revoked and made void, was or ought to have been before the revocation and disannulling thereof.

To be as valid as that revoked, was before its revocation.

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CONSTITUTION

OF THE

UNITED STATES OF AMERICA.

[Went into operation on the first Wednesday of March, 1789. *Owings v. Speed*, 5 Wh., 420.]

WE, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America: ¹

Preamble.

ARTICLE I.

SECTION 1.

1. All legislative powers, herein granted, shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

Legislative power.

SECTION 2.

1. The house of representatives shall be composed of members chosen every second year by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

House of representatives; its members; by whom chosen.

2. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Qualification of members.

3. Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers; which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three. ²

Apportionment of representatives and direct taxes.

Census.

Number of representatives.

First apportionment.

¹ 2 Dal., 471; 1 Wh., 824; 3 Wh., 191; 4 Wh., 404; 6 Wh., 414; 12 Wh., 455; 5 Pet., 128; 6 Pet., 569; 12 How., 107; 1 Brock., 177; 2 Brock., 109; 6 Call., 277; 7 J. Ch., 297; 16 J. R., 233; 17 J. R., 196; 19 J. R., 153; 4 N. Y., 276; 20 W., 366; 3 Cow., 713.

² 3 Dal., 171; 5 Wh., 817.

Vacancies. 4. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

Officers. Power of impeachment. 5. The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SECTION 3.

Senate. 1. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Classification of senators. 2. Immediately after they shall be assembled, in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen, by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

Vacancies. 3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

Qualifications. 4. The vice-president of the United States shall be president of the senate, but shall have no vote unless they be equally divided.

President of the senate. 5. The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

Officers and president *pro tem*. 6. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Trial of impeachments. 7. Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Judgment on impeachment.

SECTION 4.

Election of senators and representatives. 1. The times, places, and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may, at any time, by law, make or alter such regulations, except as to the places of choosing senators.

Annual meeting of congress. 2. The congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

SECTION 5.

Powers of each house. 1. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.¹

¹80 N. Y., 117.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.¹

Power to make rules and expel members.

3. Each house shall keep a journal of its proceedings, and, from time to time, publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

Journals.

Yeas and nays.

4. Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Adjournments.

SECTION 6.

1. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.²

Compensation to members of congress.

Privileges.

2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Exclusion from certain offices.

SECTION 7.

1. All bills, for raising revenue, shall originate in the house of representatives; but the senate may propose, or concur with, amendments as on other bills.

Revenue bills.

2. Every bill, which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections, at large, on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But in all cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Manner of passing bills.

Approval by president.

Reconsideration.

His omission to return it.

3. Every order, resolution or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and, before the same shall take effect, shall be approved by him; or being disapproved by him, shall be re-passed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.³

Concurrent orders, resolutions, &c.

¹ 1 Dal., 296; 6 Wh., 204; 1 Am. L. J., 139; 459.

² 3 Dal., 478; 4 Dal., 107.

³ 6 Op., 680. (This abbreviation stands for Opinions of the attorney-general.)

SECTION 8.

- General powers of congress. Taxation. The congress shall have power :
1. To lay and collect taxes, duties, imposts and excises; to pay the debts, and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.
 - Loans. 2. To borrow money on the credit of the United States.*
 - Commerce. 3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.†
 - Naturalization. 4. To establish an uniform rule of naturalization; and uniform laws on the subject of bankruptcies throughout the United States.‡
 - Bankruptcies. 5. To coin money, regulate the value thereof, and of foreign coin; and fix the standard of weights and measures.
 - Coin. 6. To provide for the punishment of counterfeiting the securities and weights and measures. current coin of the United States.§
 - Weights and measures. 7. To establish post-offices and post-roads.¶
 - Counterfeiting. 8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.‡
 - Post-offices and roads. 9. To constitute tribunals inferior to the supreme court.‡
 - Patent and copy rights. 10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations.‡
 - Courts. 11. To declare war; grant letters of marque and reprisal, and make rules concerning captures on land and water.¶
 - Piracies, &c. 12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years.
 - War. 13. To provide and maintain a navy.¶
 - Army. 14. To make rules for the government and regulation of the land and naval forces.
 - Navy. 15. To provide for calling forth the militia to execute the laws of the articles of war. 16. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the states, respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress.¶
 - Militia. 17. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of congress, become the seat of government of the United States; and to exercise like authority over all places purchased by the consent of the legislature of the state, in which the same shall be, for the erection of forts, magazines, arsenals, dockyards and other needful buildings; and¶
 - Organizing militia.
 - Exclusive legislation.

15 Wh., 317; 9 Wh., 199.

16 2 Pet., 449.

17 9 Wh., 112; Wh., 419; 2 Pet., 250; 11 Pet., 102; 12 Pet., 72; 5 How., 504; 7 How., 288; 8 How., 73, 490; 12 How., 299; 14 How., 568; 18 How., 71, 421; 4 Wash., 378; 1 McL., 254; 5 McL., 428; 6 McL., 70, 209, 237, 518; 1 Op., 659; 2 Op., 426; 9 J. R., 507; Hop., 149; 3 Cow., 718; 6 Cow., 169; 7 Cow., 319; 1 H., 469; 4 D., 469; 1 Wend., 193; 15 Wend., 113; 19 Wend., 547; 26 Barb., 270; 1 Robt., 201; 3 Abb. Ct. App. Dec., 541; 60 N. Y., 131, 56; 5 Abb. N. C., 388; 76 N. Y., 475; 23 Hun., 594; 29 Hun., 461.

18 2 Dal., 372; 3 Wash., 314; 2 Wh., 259; 4 Wh., 122, 209; 6 Wh., 181; 12 Wh., 218, 370; 6 Pet., 348; 635; 9 Pet., 329; 14 Pet., 67; 5 How., 295, 585; 7 How., 556; 6 Cow., 497; 3 B., 429; 4 N. Y., 282.

19 2 Lou. R., 90; 5 How., 410; 9 How., 560; 49 Barb., 521.

20 18 How., 421; 3 McL., 393

21 6 Pet., 218; 8 Pet., 591; 1 How., 202; 6 How., 486; 15 How., 212; 3 Sum., 535; 1 Blatch., 258; 5 McL., 158; 3 B. Ch., 320; 8 W., 562; 3 N. Y., 9; 39 Hun., 198.

22 1 Pet., 648.

23 5 Wh., 153.

24 8 Cr., 110; 58 Barb., 155; 48 Barb., 260.

25 58 Barb., 153.

26 12 Wh., 19.

27 5 Wh., 1; 19 Johns. R., 7.

28 6 Lans., 44; 5 Wh., 317; 6 Wh., 264; 6 Op., 577; 7 Op., 626; 17 Johns. R., 235.

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers; and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.¹

Laws for carrying out vested powers.

SECTION 9.

1. The migration or importation of such persons as any of the states now existing shall think proper to admit shall not be prohibited by the congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.²

Slave trade.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Habeas corpus. Attainder and *ex post facto* law.

3. No bill of attainder or *ex post facto* law shall be passed.³

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.⁴

Direct taxes.

5. No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another.⁵

State exports.

Port entries.

6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

Receipts and expenditures.

7. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office or title of any kind whatever, from any king, prince, or foreign state.

Titles and presents prohibited.

SECTION 10.

1. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.⁶

Powers forbidden to the states individually.

¹ 4 Wh., 316.

² 5 Wh., 338; 9 Wh., 881, 891; 10 Wh., 67; 12 Wh., 460; 1 Wash., 95, 499, 522; 2 Sum., 240; 3 Pet., 65; 11 Pet., 73; 14 Pet., 464; 14 Pet., 518.

³ 3 Dal., 390; 6 Cr., 138; 8 Pet., 110; 17 How., 463; 2 Gall., 138; 2 Wash., 366; Pet., C. C., 323; 5 Barb., 155; 60 Barb., 357; 49 N. Y., 510.

⁴ 3 Dal., 171; 5 Wh., 320.

⁵ 12 How., 313; 18 How., 421.

⁶ (Impairing the obligation of contracts.)

U. S. COURTS.—3 Cr., 87, 133; 7 Cr., 174; 9 Cr., 43; 4 Wh., 122, 518; 5 Wh., 420; 6 Wh., 131; 8 Wh., 1; 12 Wh., 213, 370; 2 Pet., 412; 3 Pet., 288; 4 Pet., 410, 514; 5 Pet., 457; 6 Pet., 348; 8 Pet., 40, 110; 9 Pet., 329; 11 Pet., 257; 1 How., 315; 2 How., 608; 3 How., 133, 534; 6 How., 301, 507; 7 How., 279; 8 How., 163; 40 How., 190, 376, 393, 402, 511; 11 How., 185; 13 How., 12; 14 How., 80; 15 How., 304; 16 How., 106, 369, 416; 17 How., 284, 456; 18 How., 331, 380, 384; 20 How., 23, 527; 2 Pa., 74; 1 Sum., 276; Pet. C. C., 322; 2 Gall., 141; 1 McL., 628; 3 McL., 397; 6 McL., 386; 4 Wall., 143, 409, 535; 3 Wall., 52, 210; 2 Wall., 10, 217; 1 Wall., 116; 15 Wall., 478; 4 Otto, 415.

NEW YORK.—3 J. C. R., 75; 7 J. C. R., 297; 7 J. R., 477; 16 J. R., 233; 17 J. R., 108, 185; 19 J. R., 153; 5 Cow., 538; 7 Cow., 849, 585; 8 Cow., 146, 643; 9 Cow., 344; 4 W., 9; 15 W., 436; 20 W., 865; 22 W., 543; 26 W., 192; 1 H., 324; 2 H., 491; 6 H., 33; 1 D., 128; 3 D., 274, 594; 1 Pal., 102; 3 Pal., 45; 11 Pal., 93, 484; 3 B., 621; 4 B., 9, 295; 5 B., 474; 6 B., 327; 8 B., 355, 502; 9 B., 302, 482; 10 B., 223; 13 B., 63; 14 B., 495, 559; 15 B., 318, 627; 16 B., 188; 17 B., 119, 660; 18 B., 150; 23 B., 33; 24 B., 87, 129; 25 B., 457; 27 B., 445; 1 N. Y., 129; 2 N. Y., 245; 4 N. Y., 276; 5 N. Y., 225; 7 N. Y., 500; 11 N. Y., 261, 308; 12 N. Y., 202; 13 N. Y., 299; 14 N. Y., 22; 18 N. Y., 190; 19 N. Y., 63, 116; 21 How. P. R., 137; 1 Lans., 274; 64 N. Y., 107; 70 N. Y., 569; 71 N. Y., 513; 61 How. Pr. R., 290; 10 J. & S., 325; 63 N. Y., 202; 66 N. Y., 129; 63 How. Pr. R., 352; 16 Hun, 285; 46 Barb., 340; 9 Hun, 622; 16 Abb. N. S., 128; 4 T. & C., 365; 2 Hun, 556; 67 N. Y., 109; 10 J. & S., 325; 24 Hun, 519; 40 Hun, 31; 41 Hun, 410; 42 Hun, 628; 89 N. Y., 36; 90 N. Y., 48; 107 N. Y., 593; 45 Hun, 519; 43 Hun, 614.

MAINE.—2 Shep., 244; 6 Shep., 109; 25 Mal., 18; 26 Mal., 191; 34 Mal., 411; 36 Mal., 9; 40 Mal., 386; 44 Mal., 140.

NEW HAMPSHIRE.—4 Fost., 189; 11 N. H., 19; 35 N. H., 457.

VERMONT.—11 Verm., 632; 13 Verm., 402, 520; 19 Verm., 86; 25 Verm., 303.

MASSACHUSETTS.—1 Mass., 196; 3 Mass., 88; 5 Mass., 509; 8 Mass., 430; 10 Mass., 337; 13 Mass., 16; 6 Pick., 461; 8 Pick., 194; 12 Pick., 572; 15 Pick., 417; 19 Pick., 43; 2 Gray, 1, 339; 4 Gray, 474.

CONNECTICUT.—3 Conn., 253, 304, 472, 523; 5 Conn., 1; 6 Conn., 430; 9 Conn., 314; 13 Conn., 87; 21 Conn., 351.

State powers, with consent of congress.

2. No state shall, without the consent of the congress, lay any imposts, or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war, in time of peace, enter into any agreement or compact with another state or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay. ¹

ARTICLE II.

SECTION 1.

President.

1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and together with the vice-president, chosen for the same term, be elected as follows: ²

Vice-president.

Mode of election.

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States shall be appointed an elector.

- NEW JERSEY.—1 Sou., 192; 2 Sou., 466; 4 Za., 385.
 PENNSYLVANIA.—6 S. & R., 323; 1 Raw., 181; 2 Wha., 395; 2 W. & S., 156; 5 W. & S., 171, 418; 2 Penn., 22, 184; 4 Penn., 49; 5 Penn., 145; 6 Penn., 86, 196, 379; 9 Penn., 401; 11 Penn., 499; 13 Penn., 133, 406; 15 Penn., 44; 24 Penn., 229; 28 Penn., 199; 33 Penn., 94.
 DELAWARE.—4 Harr., 389, 440; 5 Harr., 454.
 MARYLAND.—4 G. & J., 1, 509; 7 G. & J., 7; 9 G. & J., 365; 10 G. & J., 392; 3 Gil., 445; 9 Gil., 299; 1 Md., 351.
 VIRGINIA.—4 Gilm., 221; 9 Grat., 738.
 OHIO.—1 Ham., 236; 1 Oh., 691, 622; 2 Oh., 152; 5 Oh., 444; 7 Oh., 431; 16 Oh., 12, 569.
 ILLINOIS.—1 Bre., 16; 12 Il., 1; 14 Il., 142; 17 Il., 844; 20 Il., 209.
 KENTUCKY.—1 Lit., 226; 4 Lit., 84, 83; 1 Mon., 24; 5 Mon., 98, 102, 129; 7 Mon., 11, 544, 588; 7 B. Mon., 162; 12 B. Mon., 144; 13 B. Mon., 1, 150; 14 B. Mon., 426; 15 B. Mon., 642.
 TENNESSEE.—Peck, 1; 2 Yer., 534; 9 Yer., 490; 4 Hum., 13; 7 Hum., 84, 130; 8 Hum., 1; 1 Sn., 83, 115, 548, 637; 3 Sn., 609.
 INDIANA.—1 Blackf., 220; 6 Blackf., 373; 7 Ind., 59, 157, 470; 9 Ind., 37, 359; 11 Ind., 48, 543.
 MICHIGAN.—1 Doug., 225; 2 Doug., 83, 197; 1 Man., 68.
 WISCONSIN.—1 Wis., 26; 4 Wis., 414.
 IOWA.—1 Mor., 27, 59, 70; 1 Io., 553; 2 Io., 94; 3 Io., 489.
 NORTH CAROLINA.—1 Ire., 414; 10 Ire., 496; 13 Ire., 75.
 SOUTH CAROLINA.—2 Rich., 43; 3 R., 389; 10 R., 604.
 GEORGIA.—Cha., 175, 324; 2 Geo., 143; 4 Geo., 288; 7 Geo., 163; 9 Geo., 213; 10 Geo., 190; 12 Geo., 437; 13 Geo., 1, 306; 15 Geo., 496; 16 Geo., 102; 18 Geo., 170; 22 Geo., 506; 23 Geo., 51; 24 Geo., 356.
 ALABAMA.—2 St., 30; 7 Port., 293; 1 Al., 312; 2 Al., 401; 9 Al., 713; 11 Al., 472; 12 Al., 369; 15 Al., 521; 23 Al., 168; 29 Al., 573; 30 Al., 120; 31 Al., 552; 32 Al., 332; 713.
 MISSISSIPPI.—4 How., 647; 3 S. & M., 661; 4 S. & M., 439; 6 S. & M., 599; 8 S. & M., 9; 9 S. & M., 310; 10 S. & M., 351; 12 S. & M., 347; 13 S. & M., 645.
 MISSOURI.—9 Mi., 359, 507; 13 Mi., 112; 23 Mi., 107; 24 Mi., 85, 377, 386; 25 Mi., 535; 26 Mi., 47, 441; 27 Mi., 517; 31 Mi., 679.
 LOUISIANA.—12 La., 364, 432, 515; 13 La., 502.
 FLORIDA.—4 Fl., 23; 5 Fl., 345.
 TEXAS.—1 Tex., 250, 598; 5 Tex., 349; 6 Tex., 347; 7 Tex., 348; 11 Tex., 698; 14 Tex., 62, 235.
 CALIFORNIA.—1 Cal., 65; 2 Cal., 361, 524; 4 Cal., 127; 5 Cal., 188; 7 Cal., 1, 479, 579, 8 Cal., 52; 9 Cal., 81.
 ARKANSAS.—2 Eng., 150; 3 Eng., 236; 4 Eng., 205; 17 Ark., 518; 19 Ark., 360.
 (Bills of credit), 43 Hun., 317.
 (*Ex post facto* laws.)
 39 N. Y., 420; 3 Dal., 386; 12 Wh., 377; 2 Pet., 380, 414, 492, 627, 681; 8 Pet., 88, 110; 11 Pet., 420; 3 How., 707; 1 Bald., 74; 2 Gall., 105, 139; 1 McL., 35; 2 McL., 195; 2 Pa., 71, 501; 7 J. R., 477; 15 J. R., 138; 3 Cow., 847; 8 Cow., 543; 9 Cow., 664; 7 B., 249; 15 N. Y., 451; 22 N. Y., 95; 49 N. Y., 510; 2 Greenl., 28, 66, 275; 2 Fairf., 284; 6 Shep., 109; 10 Shep., 318, 553; 42 Mal., 429; 2 N. H., 102; 3 N. H., 473, 524; 4 N. H., 16, 572; 10 N. H., 850; 2 Verm., 174, 517; 3 Verm., 380; 4 Verm., 269; 13 Verm., 582; 1 Chip., 237; 1 Aik., 121; 4 Conn., 210; 6 Conn., 54, 190; 7 Conn., 350, 550, 558; 2 Root, 350; 4 Mass., 390; 8 Mass., 472; 9 Mass., 373; 11 Mass., 396; 16 Mass., 16, 36, 59, 76, 215; 2 Pick., 165, 172; 5 Pick., 65; 6 Pick., 601; 11 Pick., 28; 1 Gray, 152; 5 Rh. Is., 185, 497; 5 Binn., 365; 6 Binn., 271; 7 S. & R., 260; 10 S. & R., 97; 11 S. & R., 191; 12 S. & R., 330; 14 S. & R., 435; 15 S. & R., 72; 16 S. & R., 35, 169; 3 Wa., 294; 6 Wa., 449; 4 W. & S., 218, 401; 5 W. & S., 49; 23 Penn., 507; 31 Penn., 285; 1 Yer., 380; 2 Yer., 125, 260, 554, 599; 4 Yer., 292; 5 Yer., 320; 6 Yer., 119; 2 Swan., 35; Harp., 88; 5 Mon., 122, 133; 1 J. J. M., 563; 4 Bibb, 62; 16 B. Mon., 15; 1 Blackf., 196, 220; 2 Blackf., 8; 7 Blackf., 474; 7 Ind., 316; 2 Ham., 65; 3 Ham., 553; 5 Oh., 225; 12 Oh., 364; 15 Oh., 406; 5 Hayw., 263; 3 Ran., 188; 3 Grat., 632; 1 Const. R., 90; 3 Hill S. C., 96; 1 McM., 410; Walk., 258; 5 How., 285; 9 G. & J., 181; 12 Md., 195; 17 Geo., 568; 4 Tex., 470; 14 Tex., 402; 2 Dutch., 13; 3 Dutch., 185; 1 Jon., 9; 30 Al., 120; 4 Cal., 127; 13 La., 268; 17 Ark., 407; 96 N. Y., 88.
¹ 14 Pet., 572; 1 McL., 185; 3 Op., 661; 3 Ab. Ct. Ap. Dec., 541; 4 T. & C., 365; 4 Otto, 415; 67 N. Y., 109; 70 N. Y., 327; 3 Abb. N. C., 467; 10 Daly, 258; 11 Daly, 188.
² 6 Op., 603.

3. [The electors shall meet in their respective states, and vote by ballot for two persons, of whom one, at least, shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president; and if no person have a majority, then from the five highest on the list, the said house shall, in like manner, choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice-president.]

Annulled.
See 12th
amend-
ment.

4. The congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

Time of
election.

5. No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

Qualifica-
tions of the
president.

6. In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president; and the congress may, by law, provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president; and such officer shall act accordingly until the disability be removed, or a president shall be elected.

Vacancies,
how sup-
plied.

7. The president shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive, within that period, any other emolument from the United States, or any of them.

His com-
pensation.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:

“I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States.”¹

Oath of
office.

SECTION 2

1. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion in writing of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he

Powers of
President.

¹ 4 Wall, 475.

shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.¹

Treaties.

2. He shall have power by and with the advice and consent of the senate to make treaties, provided two-thirds of the senators present concur; and he shall nominate and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may, by law, vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law or in the heads of departments.²

Appoint-
ments.

Vacancies.

3. The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.³

SECTION 3.

His duties.

He shall, from time to time, give to the congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses or either of them; and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.⁴

SECTION 4.

Impeach-
ments.

The president, vice-president and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.⁵

ARTICLE III.

SECTION 1.

Judiciary.

The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish.

Tenure
and com-
pensation.

The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.⁶

SECTION 2.

Judicial
power.

1. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, or other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state, claiming lands under grants of different states; and between a state, or the citizens thereof, and foreign states, citizens, or subjects.⁷

¹ 7 Pet., 150; 18 How., 307; 4 Wash., 64; 1 Op., 341, 482; 2 Op., 329; 3 Op., 317, 418, 622; 4 Op., 144, 458, 573; 5 Op., 338, 382, 579, 729; 6 Op., 20, 353, 615; 7 Op., 561; 4 Wall., 380.

² 1 Cr., 155; 13 Pet., 230; 3 Op., 183, 673; 4 Op., 1, 218, 603; 5 Op., 283; 7 Op., 188.

³ 1 Op., 631; 2 Op., 326, 525; 3 Op., 673; 4 Op., 30, 361, 523.

⁴ 4 Op., 248; 5 Op., 257; 6 Op., 220, 500.

⁵ Whart. S. T., 260, 316; Blount's Tr., 22; Peck's Tr., 56; 3 Op., 409.

⁶ 9 Wh., 738; 1 Pet., 511; 8 How., 448; 52 N. Y., 96.

⁷ 2 Dal., 297; 4 Dal., 10, 321; 2 Cr., 406, 445; 4 Cr., 306, 443; 5 Cr., 303; 7 Cr., 506; 9 Cr., 292; 1 Wh., 9, 91; 2 Wh., 377; 3 Wh., 212, 336; 4 Wh., 1, 103, 433; 6 Wh., 264; 8 Wh., 464; 9 Wh., 409, 738;

2. In all cases affecting ambassadors, or other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the congress shall make.¹

Jurisdiction of supreme court.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trials shall be held in the state where the said crimes shall have been committed; but when not committed within any state the trial shall be at such place or places as the congress may by law have directed.²

Trial of crimes.

SECTION 3.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.³

Treason.

2. The congress shall have power to declare the punishment of treason, but no attainer of treason shall work corruption of blood or forfeiture, except during the life of the person attainted.

Punishment.

ARTICLE IV.

SECTION 1.

Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved and the effect thereof.⁴

State records.

SECTION 2.

1. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.⁵

Privilege of citizens.

2. A person charged, in any state, with treason, felony or other crime, who shall flee from justice and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.⁶

Fugitives from justice.

3. No person held to service or labor in one state, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party, to whom such service or labor may be due.⁷

Fugitives from labor.

SECTION 3.

1. New states may be admitted by the congress into this Union, but no new state shall be formed or erected within the jurisdiction of any

New states.

11 Wh., 467; 2 Pet., 136; 3 Pet., 433; 5 Pet., 1; 6 Pet., 761; 7 Pet., 324; 12 Pet., 616, 657; 15 Pet., 392; 2 How., 497; 3 How., 245; 5 How., 343, 441; 6 How., 163, 344; 8 How., 441; 12 How., 443; 13 How., 518; 16 How., 314; 19 How., 393; 3 Wash., 546; 4 Wash., 101, 371, 453, 531; 1 Pet. Ad., 327; 2 Sum., 401; 2 Curt., 322, 465; 1 Pa., 620; 2 Pa., 103; 2 Gall., 398; Gilp., 473; 2 McL., 570; 4 McL., 18, 22; 6 McL., 590; 4 J. C., 430; 17 J. R., 4; 2 H., 159; 7 Rob., 377; 55 Barb., 439; 75 N. Y., 528; 32 N. Y., 98; 56 N. Y., 1; 71 N. Y., 413; 18 Hun., 56; 34 Hun., 187.

1 2 Dal., 397; 4 Dal., 321; 1 Cr., 137; 1 Wh., 304; 6 Wh., 264; 9 Wh., 738; 11 Wh., 467; 6 Pet., 41; 5 How., 176; 14 How., 103; 4 Wash., 199, 344, 531; 6 W., 327; 10 W., 50; 1 B., 449; 5 B., 115; 7 N. Y., 576.

2 1 Curt., 23, 49; Bald., 510; 2 Sum., 240.

3 4 Cr., 75; Burr's Tr., Wha. St. T., 490; 1 Dal., 33, 35, 39; 2 Dal., 86, 88, 335, 346, 348; 4 Cr., 75; 3 Wash., 234; 11 J. R., 549; 30 Hun., 326; 90 N. Y., 502.

4 3 Wh., 234; 6 Wh., 129; 9 How., 528; 7 Cr., 484; Crabbe, 185; 10 S. & R., 242; 3 Wash., 17; 2 Pa., 502; 7 W. & S., 447; 3 J. C. R., 595; 12 N. Y., 156; 18 N. Y., 86; 60 Barb., 112; 55 Barb., 270; 9 Hun., 622; 40 Hun., 616; 101 N. Y., 33.

5 19 How., 393; 18 How., 591; 2 Pa., 502; 4 Wash., 339; 4 Am. L. R., 19; 5 Law R., 486; 2 Munf., 393; 20 B., 68; 4 J. C. R., 115; 1 Pal., 183; 19 W., 11; 35 Hun., 390.

6 3 Za., 311; 13 Geo., 97; 9 W., 221; 6 Penn. L. J., 428; 1 Am. L. J., 231; 10 S. & R., 125; 6 Har., 39; 3 McL., 153; 14 Pet., 540; 7 Verm., 121; 5 Binn., 617; 2 Miss., 26; 2 Brock., 493; 5 Met., 636; 12 Verm., 631; 5 How., 176; 3 McL., 121; 1 B., 248; 5 Cal., 287; 7 Ind., 611; 4 Za., 634; 9 Tex., 635; 1 Pa., 429; 14 How., 103; 2 Cart., 396; 4 Har., 572, 577; 56 N. Y., 187; 30 Hun., 326.

7 5 How., 215; 10 How., 62; 14 How., 13; 19 How., 396; 16 Pet., 539; 1 Wash., 499; 4 Wash., 327; 3 McL., 530, 631; 4 McL., 402; 5 McL., 64, 92, 469; 6 McL., 259, 273; 2 Pa., 348; 12 W., 311; 16 B., 268; 26 B., 270; 1 Pal., 67, 169; 1 Am. L. R., 654; 3 Op., 370; 6 Op., 302; 3 S. & R., 4; 10. B. Mon., 438; 16 B. Mon., 193; 11 Il., 332; 2 Curt., 23; 2 Curt., 153; 23 Al., 165; 10 Barr., 514; 1 Mor., 1; 1 Sn., 91; 3 Wis., 1, 157; 7 Cush., 285; 1 Cart., 368; 9 Hum., 639, 739; 1 Smith, 258; 1 Ed. S. Cases, 321.

other state, nor any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned as well as of the congress.

Territories. 2. The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.¹

SECTION 4.

Republican form of government. 38 Hun, 420. The United States shall guarantee to every state in this Union, a republican form of government, and shall protect each of them against invasion; and, on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V.

Amendments. The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution; or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner, affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

Debts of the confederacy. 1. All debts contracted and engagements entered into before the adoption of this constitution shall be as valid against the United States, under this constitution, as under the confederation.

Supreme law. 2. This constitution and the laws of the United States, which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.²

Oath of office. No religious test. 3. The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers both of the United States and of the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

Ratification. The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON,
President, and Deputy from Virginia.

¹ 1 Pet., 542; 14 Pet., 526; 16 How., 194; 19 How., 395; 1 McL., 454; 1 Pa., 646; 4 Op., 487; 2 Wall., 160.

² 5 Cr., 348; 2 Pet., 258; 16 How., 635; 4 Am. L. R., 604; 6 Op., 291; 1 Blatch., 635; 2 Curt., 454; 1 Wash., 322; 1 B., 248; 1 Hun, 695; 41 N. Y., 403; 57 Barb., 431; 59 N. Y., 659; 1 Otto, 29; 3 N. Y. Crim. R., 68; 35 Hun, 617.

NEW HAMPSHIRE

John Langdon,
Nicholas Gilman.

MASSACHUSETTS.

Nathaniel Gorham,
Rufus King.

CONNECTICUT.

Wm. Saml. Johnson.
Roger Sherman.

NEW YORK.

Alexander Hamilton.

NEW JERSEY.

Wil. Livingston,
David Brearly,
Wm. Patterson.
Jona. Dayton.

PENNSYLVANIA.

B. Franklin,
Thos. Mifflin,
Robt. Morris,
Geo. Clymer,
Tho. Fitzsimmons,
Jared Ingersol,
James Wilson,
Gouv. Morris.

DELAWARE.

Geo. Read,
Gunning Bedford, Jr.,
John Dickinson,
Richard Basset,
Jaco. Broom.

MARYLAND.

James McHenry,
Dan. of St. Thos. Jenifer,
Danl. Carroll.

VIRGINIA.

John Blair,
James Madison, Jr.

NORTH CAROLINA.

Wm. Blount,
Rich'd Dobbs Spaight,
Hu. Williamson.

SOUTH CAROLINA.

J. Rutledge,
Charles Cotesworth Pinckney,
Charles Pinckney,
Pierce Butler.

GEORGIA.

William Few,
Abr. Baldwin.

Attest: WILLIAM JACKSON, *Secretary.*

[The following extract from the journals of congress, shows the adoption of the constitution, and the time when it took effect.]

IN CONGRESS,

SATURDAY, September 13, 1788.

On the question to agree to the following proposition, it was resolved in the affirmative by the unanimous votes of nine states, viz., of New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Virginia, South Carolina, and Georgia.

WHEREAS, The convention assembled in Philadelphia, pursuant to the resolution of congress of the 21st of February, 1787, did, on the 17th of September in the same year, report to the United States in congress assembled, a constitution for the people of the United States; whereupon congress, on the 28th of the same September, did resolve unanimously, "that the said report, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a convention of delegates chosen in each state by the people thereof, in conformity to the resolves of the convention made and provided in that case:" and whereas the constitution so reported by the convention, and by congress transmitted to the several legislatures, has been ratified in the manner therein declared to be sufficient for the establishment of the same, and such ratifications duly authenticated have been received by congress, and are filed in the office of the secretary; therefore,

The constitution declared to be ratified.

Resolved, That the first Wednesday in January next be the day for appointing electors in the several states, which before the said day shall have ratified the said constitution; that the first Wednesday in February next be the day for the electors to assemble in their respective states, and vote for a president: and that the first Wednesday in March next be the time, and the present seat of congress the place, for commencing proceedings under the said constitution.

Federal government to go into operation on the 4th of March, 1789.

When ratified by the several states.

The constitution was ratified by the conventions of the several states, as follows :

- By Delaware on the 7th December, 1787.
 " Pennsylvania on the 12th December, 1787.
 " New Jersey on the 18th December, 1787.
 " Georgia on the 2d January, 1788.
 " Connecticut on the 9th January, 1788.
 " Massachusetts on the 6th February, 1788
 " Maryland on the 28th April, 1788.
 " South Carolina on the 23d May, 1788.
 " New Hampshire on the 21st June, 1788.
 " Virginia on the 26th June, 1788.
 " New York on the 26th July, 1788.
 " North Carolina on the 21st November, 1789.
 " Rhode Island on the 29th May, 1790.

AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

[The following amendments were proposed at the first session of the first congress of the United States, which was begun and held in the city of New York, on the 4th of March, 1789, and were adopted by the requisite number of states. 1 vol. Laws U. S., p. 72.]

[The following preamble and resolution preceded the original proposition of the amendments, and as they have been supposed by a high equity judge (8th Wendell's Reports, p. 100) to have an important bearing on the construction of those amendments, they are here inserted. They will be found in the Journals of the first session of the first congress.]

CONGRESS OF THE UNITED STATES,

Begun and held at the city of New York on Wednesday the 4th of March, 1789.

The convention of a number of states having, at the time of their adopting the constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added; and as extending the ground of public confidence in the government, will best insure the beneficent ends of its institution.

Resolved, By the senate and house of representatives of the United States of America in congress assembled, two-thirds of both houses concurring, that the following articles be proposed to the legislatures of the several states, as amendments to the constitution of the United States; all or any of which articles, when ratified by three-fourths of the said legislatures, to be valid to all intents and purposes, as part of the said constitution, namely:]

ARTICLE I.

Freedom of religion, of speech, of the press, and right of petition. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

Right to bear arms. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

Quartering of troops. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

Searches and seizures. Warrants. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.¹

¹ 3 Cr., 448; 6 Binn., 316; 18 How., 71, 272; 1 Op., 229; 2 Op., 266; 4 Wh., 100.

ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.¹

Trials for crimes.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.²

Rights in criminal cases.

ARTICLE VII.

In suits at common law where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.³

Trials in civil cases.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.⁴

Bail, fines, &c.

ARTICLE IX.

The enumeration, in the constitution, of certain rights shall not be construed to deny or disparage others retained by the people.⁵

Reserved rights.

ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states, respectively, or to the people.

Powers reserved.

[The foregoing ten amendments were ratified as follows:

- By New Jersey, 20th November, 1789.
- “ Maryland, 19th December, 1789.
- “ North Carolina, 22d December, 1789.
- “ South Carolina, 19th January, 1790.
- “ New Hampshire, 25th January, 1790.
- “ Delaware, 28th January, 1790.
- “ Pennsylvania, 10th March, 1790.
- “ New York, 27th March, 1790.
- “ Rhode Island, 15th June, 1790.
- “ Vermont, 3d November, 1791.
- “ Virginia, 15th December, 1791.

¹ 9 Wh., 579; 4 Wash., 402; 2 Sum., 19; 1 Wal. R. J., 127; Bald., 220; 12 S. & R., 231; 3 Cow., 636; 2 Cow., 815; 3 W., 85; 7 Pet., 243, 531; 5 How., 434; 18 How., 276; 3 Bl., 510; 39 N. Y., 181; 1 Ab. Ct. Ap. Dec., 287-307.

² 9 Wh., 579; Wall., 106; 1 Burr. Tr., 179; 10 W., 449; 2 N. Y. Crim. R. 51; 35 Hun, 516; 42 Hun, 103.

³ 1 Pet., 469, 476; 3 Pet., 433; 6 Pet., 598; 3 Dal., 297; 11 How., 437; Bald., 544; 5 McL., 569; 2 Pa., 348, 578; 12 Harr., 289; 1 Gall., 20; 24 W., 137.

⁴ 20 J. R., 459; 12 S. & R., 220; 3 Cow., 636.

⁵ 1 W. & M., 401; 3 S. & R., 169.

[The following was proposed by the congress held in Philadelphia on 2d December, 1783, and was declared by a message from the president, dated 8th January, 1798, to have been adopted by the constitutional number of states.]

ARTICLE XI.

Limitation
of judicial
power.

The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.¹

[The following was proposed at the first session of the 8th Congress held in Washington, 17th October, 1803, and was declared, by a notice of the secretary of state, dated 25th September, 1804, to have been adopted by the constitutional number of states.]

ARTICLE XII.

Election of
president
and vice-
president.

The electors shall meet in their respective states, and vote, by ballot, for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose, immediately by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice.

President.

And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

Vice-pres-
-ident.

The person having the greatest number of votes as vice-president shall be the vice-president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president, shall be eligible to that of vice-president of the United States.

When not
eligible.

ARTICLE XIII.

[Proposed by Congress, February 1, 1865; ratification announced by secretary of state, Dec. 16, 1865.]

Slavery
abolished.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Power of
congress.

§ 2. Congress shall have power to enforce this article by appropriate legislation.

¹ 3 Pet., 431; 7 Pet., 627; 11 Pet., 324; 5 Cr. 115; 6 Wh., 264; 9 Wh., 904; 2 How., 497, 550; 13 How., 13; 15 How., 309; 1 B. C. R., 157.

ARTICLE XIV.

[Proposed by Congress, June 16, 1866; ratification announced by secretary of state, July 25, 1868.]

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Citizens of U. S. 93 N. Y., 438; 99 N. Y., 386; 35 Hun., 392; Id., 523.

§ 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive or judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Representatives, how apportioned among the states.

§ 3. No person shall be a senator or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

Who not to be senator or M. C. 93 N. Y., 311.

§ 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Public debt not to be questioned.

Insurrectionary debt not to be assumed.

§ 5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

[Proposed by congress, February 27, 1869; ratification announced by secretary of state, March 30, 1870.]

SECTION 1. The right of citizens of the United States to vote, shall not be denied or abridged by the United States or by any state, on account of race, color, or previous condition of servitude.

Right to vote not to be denied or abridged

§ 2. The congress shall have power to enforce this article by appropriate legislation.

Power of congress to enforce.

THE FIRST CONSTITUTION OF THE STATE OF NEW YORK.

IN CONVENTION OF THE REPRESENTATIVES OF THE STATE OF NEW YORK,

KINGSTON, 20th April, 1777.

WHEREAS, The many tyrannical and oppressive usurpations of the king and parliament of Great Britain, on the rights and liberties of the people of the American colonies, had reduced them to the necessity of introducing a government by congresses and committees, as temporary expedients, and to exist no longer than the grievances of the people should remain without redress.

Government by congresses and committees.

AND WHEREAS, The congress of the colony of New York, did, on the thirty-first day of May, now last past, resolve as follows, viz. :

Its object temporary.

“Whereas the present government of this colony, by congress and committees, was instituted while the former government, under the crown of Great Britain, existed in full force; and was established for the sole purpose of opposing the usurpation of the British parliament, and was intended to expire on a reconciliation with Great Britain, which it was then apprehended would soon take place, but is now considered as remote and uncertain.

Its inconveniences.

“And whereas many and great inconveniences attend the said mode of government by congress and committees, as of necessity, in many instances, legislative, judicial and executive powers have been vested therein, especially since the dissolution of the former government, by the abdication of the late governor, and the exclusion of this colony from the protection of the king of Great Britain.

Recital.

“And whereas the continental congress did resolve as followeth, to wit :

“Whereas his Britannic majesty, in conjunction with the lords and commons of Great Britain, has, by a late act of parliament, excluded the inhabitants of these united colonies from the protection of his crown. And whereas, no answers whatever, to the humble petition of the colonies for redress of grievances and reconciliation with Great Britain, has been, or is likely to be given, but the whole force of that kingdom, aided by foreign mercenaries, is to be exerted for the destruction of the good people of these colonies. And whereas it appears absolutely irreconcilable to reason and good conscience, for the people of these colonies, now to take the oaths and affirmations necessary for the support of any government under the crown of Great Britain, and it is necessary that the exercise of every kind of authority under the said crown, should be totally suppressed, and all the powers of government exerted under the authority of the people of the colonies, for the preservation of internal peace, virtue and good order, as well as for the defence of our lives, liberties, and properties, against the hostile invasions and cruel depredations of our enemies :

“Therefore,

Resolution of the general congress, recommending the institution of new governments.

“Resolved, That it be recommended to the respective assemblies and conventions of the united colonies, where no government sufficient to the exigencies of their affairs has been hitherto established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.’

Powers of the provincial congress inadequate.

“And whereas doubts have arisen, whether this congress are invested with sufficient power and authority to deliberate and determine on so important a subject as the necessity of erecting and constituting a new form of government and internal police, to the exclusion of all foreign jurisdiction, dominion and control whatever. And whereas it appertains of right solely to the people of this colony to determine the said doubts: Therefore,

Recommendation to elect deputies with adequate powers.

“Resolved, That it be recommended to the electors in the several counties in this colony, by election in the manner and form prescribed for the election of the present congress, either to authorize (in addition to the powers vested in this congress) their present deputies, or others in the stead of their present deputies, or either of them, to take into consideration the necessity and propriety of instituting such new government as in and by the said resolution of the continental congress is described and recommended : And if the majority of the counties, by their deputies in provincial congress, shall be of opinion that such new government ought to be instituted and established, then to institute and establish such a government as they shall deem best calculated to secure the rights, liber-

ties, and happiness of the good people of this colony: and to continue in force until a future peace with Great Britain shall render the same unnecessary: And,

“Resolved, That the said elections in the several counties, ought to be had on such day, and at such place or places, as by the committee of each county respectively shall be determined. And it is recommended to the said committees, to fix such early days for the said elections, as that all the deputies to be elected have sufficient time to repair to the city of New York by the second Monday in July next; on which day all the said deputies ought punctually to give their attendance.

Time and place of meeting.

“And whereas the object of the foregoing resolutions is of the utmost importance to the good people of this colony.

“Resolved, That it be, and it is hereby earnestly recommended to the committees, freeholders and other electors in the different counties in this colony, diligently to carry the same into execution.”

AND WHEREAS, The good people of the said colony, in pursuance of the said resolution, and reposing special trust and confidence in the members of this convention, have appointed, authorized and empowered them for the purposes, and in the manner, and with the powers in and by the said resolve specified, declared and mentioned.

Appointment of this convention.

AND WHEREAS, The delegates of the United American States, in general congress convened, did on the fourth day of July now last past, solemnly publish and declare, in the words following, viz.:

Proceedings of the general congress.

“When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature’s God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

Declaration of independence.

“We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are, life, liberty and the pursuit of happiness: that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed: that whenever any form of government becomes destructive of those ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes, and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former system of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

Reasons thereof.

“He has refused his assent to laws, the most wholesome and necessary for the public good.

Grievances.

“He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent

should be obtained; and when so suspended, he has utterly neglected to attend to them.

“He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature; a right inestimable to them, and formidable to tyrants only.

“He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into a compliance with his measures.

“He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

“He has refused for a long time, after such dissolutions, to cause others to be elected, whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise; the state remaining in the meantime exposed to all the dangers of invasion from without, and convulsions within.

“He has endeavored to prevent the population of these states; for that purpose obstructing the laws for the naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

“He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

“He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

“He has erected a multitude of new offices, and sent hither swarms of officers to harrass our people, and eat out their substance.

“He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

“He has affected to render the military independent of, and superior to, the civil power.

“He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation—

“For quartering large bodies of troops among us:

“For protecting them by a mock trial, from punishment for any murders they should commit on the inhabitants of these states:

“For cutting off our trade with all parts of the world:

“For imposing taxes on us, without our consent:

“For depriving us, in many cases, of the benefits of trial by jury:

“For transporting us beyond seas, to be tried for pretended offences:

“For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

“For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:

“For suspending our own legislatures, and declaring themselves invested with power, to legislate for us in all cases whatsoever.

“He has abdicated government here, by declaring us out of his protection, and waging war against us.

“He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

“He is at this time transporting large armies of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

“He has constrained our fellow-citizens, taken captive on the high

ness, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

“He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

“In every stage of these oppressions, we have petitioned for redress, in the most humble terms: our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked, by every act which may define a tyrant, is unfit to be the ruler of a free people.

“Nor have we been wanting in attentions to our British brethren. We have warned them from time to time, of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connection and correspondence. They, too, have been deaf to the voice of justice and of conciguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them as we hold the rest of mankind: enemies in war; in peace, friends.

“We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the supreme judge of the world, for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be **FREE AND INDEPENDENT STATES**; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain, is, and ought to be, totally dissolved; and that as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of divine providence, we mutually pledge to each other, our lives, our fortunes, and our sacred honor.”

AND WHEREAS, This convention, having taken this declaration into their most serious consideration, did, on the ninth day of July last past, unanimously resolve that the reasons assigned by the continental congress, for declaring the united colonies free and independent states, are cogent, and conclusive; and that, while we lament the cruel necessity which has rendered that measure unavoidable, we approve the same, and will, at the risk of our lives and fortunes, join with the other colonies in supporting it. Approved.

By virtue of which several acts, declarations, and proceedings, mentioned and contained in the afore-recited resolves or resolutions of the general congress of the United American States, and of the congresses or conventions of this state, all power whatever therein hath reverted to the people thereof, and this convention hath, by their suffrages and free choice, been appointed, and among other things, authorized to institute and establish such a government as they shall deem best calculated to secure the rights and liberties of the good people of this state, most conducive of the happiness and safety of their constituents in particular, and of America in general: Powers of the convention.

I. This convention therefore, in the name and by the authority of the good people of this state, **DOTH ORDAIN, DETERMINE AND DECLARE**, That no authority shall, on any pretence whatever, be exercised All authority derived from the people.

over the people or members of this state, but such as shall be derived from and granted by them.

Legislative power.

II. This convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE AND DECLARE, That the supreme legislative power within this state, shall be vested in two separate and distinct bodies of men; the one to be called the Assembly of the state of New York; the other to be called the Senate of the state of New York; who, together, shall form the legislature, and meet once at least in every year for the despatch of business.

Council of revision.

III. AND WHEREAS, Laws inconsistent with the spirit of this constitution, or with the public good, may be hastily and unadvisedly passed: BE IT ORDAINED, That the governor, for the time being, the chancellor and the judges of the supreme court, or any two of them, together with the governor, shall be, and hereby are, constituted a council to revise all bills about to be passed into laws by the legislature. And for that purpose shall assemble themselves, from time to time, when the legislature shall be convened; for which, nevertheless, they shall not receive any salary or consideration under any pretence whatever. And that all bills which have passed the senate and assembly, shall, before they become laws, be presented to the said council for their revisal and consideration; and if upon such revision and consideration, it should appear improper to the said council, or a majority of them, that the said bill should become a law of this state, that they return the same, together with their objections thereto in writing, to the senate or house of assembly, in whichsoever the same shall have originated, who shall enter the objections sent down by the council, at large, in their minutes, and proceed to reconsider the said bill. But if after such reconsideration, two-thirds of the said senate or house of assembly, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall be a law.

And in order to prevent any unnecessary delays,

Bills to become laws if not returned in ten days.

BE IT FURTHER ORDAINED, That if any bill shall not be returned by the council, within ten days after it shall have been presented, the same shall be a law, unless the legislature shall, by their adjournment, render a return of the said bill within ten days impracticable; in which case, the bill shall be returned on the first day of the meeting of the legislature, after the expiration of the said ten days.

The assembly.

IV. That the assembly shall consist of at least seventy members, to be annually chosen in the several counties, in the proportions following, viz.:

Representation apportioned to each county.

For the city and county of New York,	Nine.
The city and county of Albany,	Ten.
The county of Dutchess,	Seven.
The county of Westchester,	Six.
The county of Ulster,	Six.
The county of Suffolk,	Five.
The county of Queens,	Four.
The county of Orange,	Four.
The county of Kings,	Two.
The county of Richmond,	Two.
*The county of Tryon,	Six.
*The county of Charlotte,	Four.
†The county of Cumberland,	Three.
‡The county of Gloucester,	Two.

* Names afterwards altered, and the territory of which they consisted, divided into several counties.

† Ceded to Vermont.

V. That as soon as the expiration of seven years, subsequent to the termination of the present war, as may be, a census of the electors and inhabitants in this state shall be taken, under the direction of the legislature. And if on such census it shall appear, that the number of representatives in assembly from the said counties is not justly proportioned to the number of electors in the said counties respectively, that the legislature do adjust and apportion the same by that rule. And further, that once in every seven years, after the taking of the said first census, a just account of the electors resident in each county shall be taken; and if it shall thereupon appear that the number of electors in any county, shall have increased or diminished one or more seventieth parts of the whole number of electors, which on the said first census shall be found in this state, the number of representatives for such county shall be increased or diminished accordingly, that is to say, one representative for every seventieth part, as aforesaid.

Census,
when and
how to be
taken.

VI. AND WHEREAS, An opinion hath long prevailed among divers of the good people of this state, that voting at elections by ballot, would tend more to preserve the liberty and equal freedom of the people, than voting *viva voce*: to the end, therefore, that a fair experiment be made, which of those two methods of voting is to be preferred:

Ballot.
opinion of
voting by.

BE IT ORDAINED, That as soon as may be, after the termination of the present war, between the United States of America and Great Britain, an act or acts be passed by the legislature of this state, for causing all elections thereafter to be held in this state for senators and representatives in assembly, to be by ballot, and directing the manner in which the same shall be conducted. AND WHEREAS it is possible, that after all the care of the legislature, in framing the said act or acts, certain inconveniences and mischiefs, unforeseen at this day, may be found to attend the said mode of electing by ballot:

After the
war, ex-
periment
to be made.

IT IS FURTHER ORDAINED, That if after a full and fair experiment shall be made of voting by ballot aforesaid, the same shall be found less conducive to the safety or interest of the state, than the method of voting *viva voce*, it shall be lawful and constitutional for the legislature to abolish the same: *Provided* two-thirds of the members present in each house respectively, shall concur therein. And further, that during the continuance of the present war, and until the legislature of this state shall provide for the election of senators, and representatives in assembly, by ballot, the said elections shall be made *viva voce*.

To be abol-
ished if
found in-
convenient

VII. That every male inhabitant of full age, who shall have personally resided within one of the counties of this state, for six months immediately preceding the day of election, shall at such election, be entitled to vote for representatives of the said county in assembly; if during the time aforesaid, he shall have been a freeholder, possessing a freehold of the value of twenty pounds, within the said county, or have rented a tenement therein of the yearly value of forty shillings, and been rated and actually paid taxes to this state: *Provided always*, That every person who now is a freeman of the city of Albany, or who was made a freeman of the city of New York, on or before the fourteenth day of October, in the year of our Lord one thousand seven hundred and seventy-five, and shall be actually and usually resident in the said cities respectively, shall be entitled to vote for representatives in assembly within his said place of residence.

Qualifica-
tions of
electors.

VIII. That every elector, before he is admitted to vote, shall, if required by the returning officer or either of the inspectors, take an oath, or if of the people called Quakers, an affirmation, of allegiance to the state.

Oath of
allegiance.

IX. That the assembly thus constituted, shall chuse their own speaker, be judges of their own members, and enjoy the same privileges, and

Privileges
of members
of assem-
bly.

A quorum. proceed in doing business, in like manner as the assemblies of the colony of New York of right formerly did; and that a majority of the said members shall, from time to time, constitute a house to proceed upon business.

Numbers of senators, and by whom chosen. X. And this convention doth further, in the name, and by the authority of the good people of this state, ORDAIN, DETERMINE AND DECLARE, that the senate of the state of New York shall consist of twenty-four freeholders, to be chosen out of the body of the freeholders, and that they be chosen by the freeholders of this state, possessed of freeholds of the value of one hundred pounds, over and above all debts charged thereon.

Their term of election and rotation in office. XI. That the members of the senate be elected for four years, and immediately after the first election, they be divided by lot into four classes, six in each class, and numbered, one, two, three and four; and that the seats of the members of the first class shall be vacated at the expiration of the first year; the second class the second year, and so on continually, to the end, that the fourth part of the senate, as nearly as possible, may be annually chosen.

Manner of choosing. XII. That the election of senators shall be after this manner; that so much of this state as is now parcelled into counties, be divided into four great districts: the southern district to comprehend the city and county of New-York, Suffolk, Westchester, Kings, Queens, and Richmond counties: the middle district to comprehend the counties of Dutchess, Ulster, and Orange: the western district, the city and county of Albany, and Tryon county: and the eastern district, the counties of Charlotte, Cumberland, and Gloucester. That the senators shall be elected by the freeholders of the said districts, qualified as aforesaid, in the proportions following, to wit: in the southern district, nine; in the middle district, six; in the western district, six; and in the eastern district, three.

Census, and apportionment of the senators. AND BE IT ORDAINED, that a census shall be taken as soon as may be, after the expiration of seven years from the termination of the present war, under the direction of the legislature; and if, on such census, it shall appear that the number of senators is not justly proportioned to the several districts, that the legislature adjust the proportion, as near as may be, to the number of freeholders, qualified as aforesaid, in each district. That when the number of electors within any of the said districts shall have increased one twenty-fourth part of the whole number of electors, which by the said census shall be found to be in this state, an additional senator shall be chosen by the electors of such district. That a majority of the number of senators, to be chosen as aforesaid, shall be necessary to constitute a senate sufficient to proceed upon business; and that the senate shall, in like manner with the assembly, be the judges of its own members. AND BE IT ORDAINED, that it shall be in the power of the future legislatures of this state, for the convenience and advantage of the good people thereof, to divide the same into such further and other counties and districts, as shall to them appear necessary.

A quorum. XIII. And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE AND DECLARE, that no member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to the subjects of this state by this constitution, unless by the law of the land, or the judgment of his peers.

To be judges of their own members. XIV. That neither the assembly or the senate shall have power to adjourn themselves for any longer time than two days, without the mutual consent of both.

Other counties and districts may be erected. XV. That, whenever the assembly and senate disagree, a conference shall be held in the presence of both, and be managed by committees, to be by them respectively chosen by ballot. That the doors, both of the

No person to be disfranchised but by law.

Adjournments of both houses.

Conference between them.

senate and assembly, shall at all times be kept open to all persons, except when the welfare of the state shall require their debates to be kept secret. And the journals of all their proceedings shall be kept in the manner heretofore accustomed by the general assembly of the colony of New York; and, except such parts as they shall, as aforesaid, respectively determine not to make public, be, from day to day, if the business of the legislature will permit, published.

Doors to be open, and Journals how kept and published.

XVI. It is, nevertheless, provided, that the number of senators shall never exceed one hundred, nor the number of the assembly three hundred: but that, whenever the number of senators shall amount to one hundred, or of the assembly to three hundred, then, and in such case, the legislature shall, from time to time hereafter, by laws for that purpose, apportion and distribute the said one hundred senators and three hundred representatives among the great districts, and counties of this state, in proportion to the number of their respective electors, so that the representation of the good people of this state, both in the senate and assembly, shall forever remain proportionate and adequate.

Number of the senate and assembly limited.

XVII. And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, that the supreme executive power and authority of this state shall be vested in a governor; and that, statedly, once in every three years, and as often as the seat of government shall become vacant, a wise and discreet freeholder of this state shall be, by ballot, elected governor, by the freeholders of this state, qualified, as before described, to elect senators, which elections shall be always held at the times and places of choosing representatives in assembly for each respective county; and that the person who hath the greatest number of votes within the said state, shall be the governor thereof.

Executive power vested in governor. When and how to be chosen.

XVIII. That the governor shall continue in office three years, and shall, by virtue of his office, be general and commander-in-chief of all the militia, and admiral of the navy, of this state; that he shall have power to convene the assembly and senate on extraordinary occasions; to prorogue them from time to time, provided such prorogation shall not exceed sixty days in the space of any one year; and, at his discretion, to grant reprieves and pardons to persons convicted of crimes other than treason or murder, in which he may suspend the execution of the sentence, until it shall be reported to the legislature, at their subsequent meeting, and they shall either pardon, or direct the execution of the criminal, or grant a further reprieve.

His power.

XIX. That it shall be the duty of the governor to inform the legislature, at every session, of the condition of the state, so far as may respect his department; to recommend such matters to their consideration as shall appear to him to concern its good government, welfare, and prosperity; to correspond with the continental congress, and other states; to transact all necessary business with the officers of government, civil and military; to take care that the laws are faithfully executed, to the best of his ability; and to expedite all such measures as may be resolved upon by the legislature.

And duty.

XX. That a lieutenant-governor shall, at every election of a governor, and as often as the lieutenant-governor shall die, resign, or be removed from office, be elected in the same manner with the governor, to continue in office until the next election of a governor; and such lieutenant-governor shall, by virtue of his office, be president of the senate, and, upon an equal division, have a casting vote in their decisions, but not vote on any other occasion.

Lieut.-governor.

To be president of the senate.

And in case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the state, the lieutenant-governor shall exercise all the power and authority appertaining to the office

His further power and duty.

of governor, until another be chosen, or the governor absent or impeached, shall return, or be acquitted. *Provided*, that where the governor shall, with the consent of the legislature, be out of the state, in time of war, at the head of a military force thereof, he shall still continue in his command of all the military force of this state, both by sea and land.

In his absence a president to be chosen by the senate. His power and duty.

XXI. That whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senators shall have power to elect one of their own members to the office of president of the senate, which he shall exercise *pro hac vice*. And if, during such vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the senate shall, in like manner as the lieutenant-governor, administer the government, until others shall be elected by the suffrage of the people, at the succeeding election.

Treasurer.

XXII. And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, that the treasurer of this state shall be appointed by act of the legislature, to originate with the assembly. *Provided*, that he shall not be elected out of either branch of the legislature.

Council of appointment.

XXIII. That all officers, other than those who, by this constitution, are directed to be otherwise appointed, shall be appointed in the manner following, to-wit: The assembly shall, once in every year, openly nominate and appoint one of the senators from each great district, which senators shall form a council, for the appointment of the said officers, of which the governor for the time being, or the lieutenant-governor, or the president of the senate (when they shall respectively administer the government), shall be president, and have a casting voice, but no other vote; and, with the advice and consent of the said council, shall appoint all of the said officers; and that a majority of the said council be a quorum: AND FURTHER, The said senators shall not be eligible to the said council for two years successively.

Tenure of certain offices.

XXIV. That all military officers be appointed during pleasure; that all commissioned officers, civil and military, be commissioned by the governor; and that the chancellor, the judges of the supreme court, and first judge of the county court in every county, hold their offices during good behavior, or until they shall have respectively attained the age of sixty years.

Tenure of certain judicial offices.

XXV. That the chancellor and judges of the supreme court shall not, at the same time, hold any other office, excepting that of delegate to the general congress, upon special occasions; and that the first judges of the county courts in the several counties, shall not, at the same time, hold any other office, excepting that of senator, or delegate to the general congress. But if the chancellor or either of the said judges be elected or appointed to any other office, excepting as is before excepted, it shall be at his option in which to serve.

Sheriffs and coroners.

XXVI. That sheriffs and coroners be annually appointed; and that no person shall be capable of holding either of the said offices more than four years successively; nor the sheriff of holding any other office at the same time.

Registers, clerks, and marshal, by whom appointed.

XXVII. AND BE IT FURTHER ORDAINED, That the register, and clerks in chancery, be appointed by the chancellor; the clerks of the supreme court, by the judges of the said court; the clerk of the court of probates, by the judge of the said court; and the register and marshal of the court of admiralty by the judge of the admiralty. The said marshal, registers, and clerks, to continue in office during the pleasure of those by whom they are to be appointed as aforesaid.

Attorneys, solicitors, and coun-

And all attorneys, solicitors and counsellors at law, hereafter to be appointed, be appointed by the court, and licensed by the first judge of the

court in which they shall respectively plead or practice ; and be regulated by the rules and orders of the said courts.

Sellers, by whom appointed. Duration of offices.

XXVIII. AND BE IT FURTHER ORDAINED, That where, by this constitution, the duration of any office shall not be ascertained, such office shall be construed to be held during the pleasure of the council of appointment: *Provided*, that new commissions shall be issued to judges of the county courts (other than to the first judge), and to justices of the peace, once at the least in every three years.

XXIX. The town clerks, supervisors, assessors, constables and collectors, and all other officers, heretofore eligible by the people, shall always continue to be so eligible, in the manner directed by the present or future acts of legislature.

Town officers.

That loan officers, county treasurers, and clerks of the supervisors, continue to be appointed in the manner directed by the present or future acts of the legislature.

Loan officers, county treasurers, &c.

XXX. That delegates to represent this state in the general congress of the United States of America be annually appointed, as follows, to wit: The senate and assembly shall each openly nominate as many persons as shall be equal to the whole number of delegates to be appointed ; after which nomination they shall meet together, and those persons named in both lists shall be delegates ; and out of those persons whose names are not on both lists, one half shall be chosen by the joint ballot of the senators and members of assembly, so met together as aforesaid.

Delegates to congress.

XXXI. That the style of all laws shall be as follows, to wit: "Be it enacted by the people of the state of New York, represented in senate and assembly," and that all writs and other proceedings shall run in the name of the people of the state of New York, and be tested in the name of the chancellor, or chief judge of the court from whence they shall issue.

Style of laws and form of process.

XXXII. And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, that a court shall be instituted for the trial of impeachments and the correction of errors, under the regulations which shall be established by the legislature, and to consist of the president of the senate for the time being, and the senators, chancellor and judges of the supreme court, or the major part of them ; except that when an impeachment shall be prosecuted against the chancellor, or either of the judges of the supreme court, the person so impeached shall be suspended from exercising his office, until his acquittal ; and in like manner, when an appeal from a decree in equity shall be heard, the chancellor shall inform the court of the reasons of his decree, but shall not have a voice in the final sentence. And if the cause to be determined shall be brought up by writ of error, on a question of law, on a judgment in the supreme court, the judges of the court shall assign the reasons of such their judgment, but shall not have a voice for its affirmance or reversal.

Court for the trial of impeachments and the correction of errors.

XXXIII. That the power of impeaching all officers of the state, for mal and corrupt conduct in their respective offices, be vested in the representatives of the people in assembly ; but that it shall always be necessary that two third parts of the members present shall consent to and agree in such impeachment. That, previous to the trial of every impeachment, the members of the said court shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence ; and that no judgment of the said court shall be valid unless it shall be assented to by two third parts of the members then present ; nor shall it extend farther than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this state. But the party so convicted shall be, nevertheless, liable and

Power of impeachment, and manner of proceeding.

subject to indictment, trial, judgment, and punishment, according to the laws of the land.

Party
accused to
be allowed
counsel.

XXXIV. AND IT IS FURTHER ORDAINED, That in every trial on impeachment, or indictment for crimes or misdemeanors, the party impeached or indicted shall be allowed counsel, as in civil actions.

Law of the
state.

XXXV. And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, that such parts of the common law of England, and of the statute law of England and Great Britain, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony on the 19th day of April, in the year of our Lord one thousand seven hundred and seventy-five, shall be and continue the law of this state, subject to such alterations and provisions as the legislature of this state shall, from time to time, make concerning the same. That such of the said acts as are temporary, shall expire at the times limited for their duration respectively. That all such parts of the said common law, and all such of the said statutes and acts aforesaid, or parts thereof, as may be construed to establish or maintain any particular denomination of Christians or their ministers, or concern the allegiance heretofore yielded to, and the supremacy, sovereignty, government, or prerogatives, claimed or exercised by the king of Great Britain and his predecessors, over the colony of New York and its inhabitants, or are repugnant to this constitution, be and they hereby are, abrogated and rejected. And this convention doth further ORDAIN, that the resolves or resolutions of the congresses of the colony of New York, and of the convention of the state of New York, now in force, and not repugnant to the government established by this constitution, shall be considered as making part of the laws of this state; subject nevertheless, to such alterations and provisions as the legislature of this state may, from time to time, make concerning the same.

Grants by
the king
after a
certain
period
void.

XXXVI. AND BE IT FURTHER ORDAINED, That all grants of land within this state, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but that nothing in this constitution contained, shall be construed to affect any grants of land, within this state, made by the authority of the said king or his predecessors, or to annul any charters to bodies politic, by him or them, or any of them, made prior to that day. And that none of the said charters shall be adjudged to be void, by reason of any nonuser or misuser of any of their respective rights or privileges, between the nineteenth day of April, in the year of our Lord one thousand seven hundred and seventy-five, and the publication of this constitution. AND FURTHER, That all such of the officers, described in the said charters respectively, as, by the terms of the said charters, were to be appointed by the governor of the colony of New York, with or without the advice and consent of the council of the said king, in the said colony, shall henceforth be appointed by the council established by this constitution for the appointment of officers in this state, until otherwise directed by the legislature.

Charter
rights and
former
grants
preserved.

Purchases
of lands
from the
Indians.

XXXVII. AND WHEREAS, It is of great importance to the safety of this state that peace and amity with the Indians within the same, be at all times supported and maintained: AND WHEREAS, the frauds too often practiced towards the said Indians, in contracts made for their lands, have, in divers instances, been productive of dangerous discontents and animosities: BE IT ORDAINED, That no purchases or contracts for the sale of lands made since the 14th day of October, in the year of our Lord one thousand seven hundred and seventy-five, or which may hereafter be made with or of the said Indians, within the

limits of this state, shall be binding on the said Indians, or deemed valid, unless made under the authority and with the consent of the legislature of this state.

XXXVIII. AND WHEREAS, We are required, by the benevolent principles of rational liberty, not only to expel civil tyranny, but also to guard against that spiritual oppression and intolerance wherewith the bigotry and ambition of weak and wicked priests and princes have scourged mankind: this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed within this state to all mankind: *Provided*, that the liberty of conscience hereby granted shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

Free exercise of religion.

XXXIX. AND WHEREAS, The ministers of the gospel are, by their profession, dedicated to the service of God and the cure of souls, and ought not to be diverted from the great duties of their function; therefore no minister of the gospel, or priest of any denomination whatsoever, shall, at any time hereafter, under any pretence or description whatever, be eligible to or capable of holding, any civil or military office or place within this state.

No minister or priest to hold any office.

XL. AND WHEREAS, It is of the utmost importance to the safety of every state, that it should always be in a condition of defence; and it is the duty of every man who enjoys the protection of society, to be prepared and willing to defend it; this convention, therefore, in the name, and by the authority of the good people of this state, doth ORDAIN, DETERMINE, AND DECLARE, That the militia of this state, at all times hereafter, as well in peace as in war, shall be armed and disciplined, and in readiness for service. That all such of the inhabitants of this state (being of the people called Quakers) as from scruples of conscience, may be averse to the bearing of arms, be therefrom excused by the legislature, and do pay to the state such sums of money, in lieu of their personal service, as the same may, in the judgment of the legislature, be worth. And that a proper magazine of warlike stores proportioned to the number of inhabitants, be forever hereafter, at the expense of this state, and by acts of the legislature, established, maintained, and continued, in every county in this state.

Militia.

Magazines.

XLI. And this convention doth further ORDAIN, DETERMINE AND DECLARE, in the name, and by the authority of the good people of this state, that trial by jury, in all cases, in which it hath heretofore been used in the colony of New York, shall be established, and remain inviolate forever: And that no acts of attainder shall be passed by the legislature of this state, for crimes other than those committed before the termination of the present war; and that such acts shall not work a corruption of blood. AND FURTHER, that the legislature of this state shall, at no time hereafter, institute any new court or courts, but such as shall proceed according to the course of the common law.

Trial by jury.

New courts.

XLII. And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE AND DECLARE, That it shall be in the discretion of the legislature to naturalize all such persons, and in such manner, as they shall think proper: *Provided*, all such of the persons so to be by them naturalized, as, being born in parts beyond sea, and out of the United States of America, shall come to settle in, and become subjects of this state, shall take an oath of allegiance to this state, and abjure and renounce all allegiance and subjection to all and every foreign king, prince, potentate, and state, in all matters, ecclesiastical as well as civil. By order:

Naturalization.

LEONARD GANSEVOORT, *Pres. pro tem.*

[The following has been published as an authentic list of the members elected to the convention which formed the preceding constitution. Its insertion here will gratify a laudable curiosity, while it will perpetuate the names of those to whose labors their country is indebted for one of the earliest written constitutions adopted by the American states. In the first or left hand column are placed the names of those who are found to have attended the convention at any time from the day the constitution was reported by the select committee till its adoption—that is, from the 6th of March to the 20th of April, 1777, inclusive. In the second or right hand column are placed those who are not found to have attended at all during that period, though they had been more or less in the convention before, and some of them were members of the select committee.]

NEW YORK.

Attending in March and April.

John Jay,
James Duane,
John Morrin Scott,
James Beekman,
Daniel Dunscomb,
Robert Harper,
Philip Livingston,
Abraham P. Lott,
Peter P. Van Zandt,
Anthony Rutgers,
Evert Bancker,
Isaac Stoutenbergh,
Isaac Roosevelt,
John Van Courtlandt,
William Denning.

Not attending same time.

Jacobus Van Zandt,
Abraham Brashier,
Comfort Sands,
Henry Remsen,
Garrit Abeel,
John Broome.

ALBANY.

Abraham Ten Broeck,
Robert Yates,
Leonard Gansevoort,
Abraham Yates, Jr.,
John Ten Broeck,
John Tayler,
Peter R. Livingston,
Robert Van Rensselaer,
Matthew Adgate,
John I. Bleecker,
Jacob Cuyler.

DUTCHESS.

Robert R. Livingston,
Zephaniah Platt,
John Schenck,
Jonathan Landon,
Gilbert Livingston,
James Livingston,
Henry Schenck.

Nathaniel Sackett,
Dr. Crane,
Mr. Hopkins.

ULSTER.

Christopher Tappen,
Matthew Rea,
Matthew Cantine,
Charles De Witt,
Arthur Parks.

Levi Pawling,
Henry Wisner, Jr.

WESTCHESTER.

Pierre Van Courtlandt,
Gouverneur Morris,
Gilbert Drake,
Lewis Graham,
—— Lockwood,
Zebediah Mills,
Jonathan Platt,
Jonathan G. Tompkins.

Lewis Morris,
William Paulding,
Mr. Haveland.

ORANGE.

Attending in March and April.

William Allison,
Henry Wisner,
Jeremiah Clarke,
Isaac Sherwood,
Joshua H. Smith.

Not attending same time.

John Haring,
Mr. Little,
David Pye,
Thomas Outwater.

SUFFOLK.

William Smith,
Thomas Tredwell,
John Sloss Hobart,
Matthias Burnet Miller,
Ezra L'Hommedieu.

Nathaniel Woodhull,
Thomas Deering,
David Gelston.

QUEENS.

Jonathan Lawrence.

Rev. Mr. Kettletas,
Samuel Townsend,
James Townsend,
Mr. Van Wyck,
Col. Blackwell.

TRYON.

William Harper,
Isaac Paris,
Mr. Veeder,
John Moore,
Benjamin Newkirk.

CHARLOTTE.

John Williams,
Alexander Webster,
William Duer.

CUMBERLAND.

Simeon Stephens.

Joseph Marsh,
John Sessions.

GLOUCESTER.

Jacob Bayley,
Peter Olcott.

KINGS AND RICHMOND.

[It does not appear from any entry on the journals, or from any papers now to be found, that the members elected in these two counties (if any), ever attended the provincial congress, or the convention, after the 30th June, 1776. Before that period Messrs. Bancker and Lawrence were in the provincial congress, from Richmond; and in the month of June, 1776. Messrs. Journey, Conner, and Cortelyou were occasionally attending from Richmond, and Messrs. Leferts, Polhemus, and Cowenhoven, from Kings.]

AMENDMENTS TO FIRST CONSTITUTION.

IN CONVENTION OF THE DELEGATES OF THE STATE OF NEW YORK.

ALBANY, October 27, 1801.

WHEREAS, The legislature of this state, by their act, passed the sixth Preamble.
day of April last, did propose to the citizens of this state, to elect by
ballot delegates to meet in convention, "for the purpose of considering
the parts of the constitution of this state, respecting the number of senators
and members of assembly in this state, and with power to reduce and
limit the number of them as the said convention might deem proper; and
also for the purpose of considering and determining the true construction
of the twenty-third article of the constitution of this state relative to the
right of nomination to office;"

AND WHEREAS, the people of this state have elected the members of
this convention, for the purpose above expressed; and this convention,
having maturely considered the subject thus submitted to their determi-

nation, do, in the name and by the authority of the people of this state, ORDAIN, DETERMINE AND DECLARE :

Number of members of assembly.

I. That the number of the members of the assembly hereafter to be elected, shall be one hundred, and shall never exceed one hundred and fifty.

To be apportioned by the legislature.

II. That the legislature at their next session, shall apportion the said one hundred members of the assembly among the several counties of this state, as nearly as may be, according to the number of electors which shall be found to be in each county by the census directed to be taken in the present year.

Number of senators reduced to 32, and the manner of reducing.

III. That from the first Monday in July next, the number of the senators shall be permanently thirty-two, and that the present number of senators shall be reduced to thirty-two in the following manner, that is to say : The seats of the eleven senators composing the first class, whose time of service will expire on the first Monday in July next, shall not be filled up : and out of the second class the seats of one senator from the middle district, and of one senator from the southern district, shall be vacated by the senators of those districts belonging to that class, casting lots among themselves ; out of the third class the seats of two senators from the middle district, and of one senator from the eastern district, shall be vacated in the same manner ; out of the fourth class the seats of one senator from the middle district, of one senator from the eastern district, and of one senator from the western district, shall be vacated in the same manner ; and if any of the said classes shall neglect to cast lots, the senate shall in such case proceed to cast lots for such class or classes so neglecting. And that eight senators shall be chosen at the next election, in such districts as the legislature shall direct, for the purpose of apportioning the whole number of senators amongst the four great districts of this state, as nearly as may be, according to the number of electors qualified to vote for senators, which shall be found to be in each of the said districts by the census above mentioned ; which eight senators so to be chosen shall form the first class.

Mode of increasing the assembly till it arrive to 150, and the legislature to apportion senators and assemblymen.

IV. That from the first Monday in July next, and on the return of every census thereafter, the number of the assembly shall be increased at the rate of two members for every year, until the whole number shall amount to one hundred and fifty ; and that upon the return of every such census, the legislature shall apportion the senators and members of the assembly amongst the great districts and counties of this state, as nearly as may be, according to the number of their respective electors : *Provided*, That the legislature shall not be prohibited by anything herein contained, from allowing one member of assembly to each county, heretofore erected within this state.

True construction of 23d article of the constitution declared.

V. And this convention do further, in the name and by the authority of the people of this state, ORDAIN, DETERMINE AND DECLARE, That by the true construction of the twenty-third article of the constitution of this state, the right to nominate all officers, other than those who by the constitution are directed to be otherwise appointed, is vested concurrently in the person administering the government of this state for the time being, and in each of the members of the council of appointment.

By order,

A. BURR,

*President of the Convention,
and delegate from Orange County.*

Attest,

JAMES VAN INGEN, }
JOSEPH CONSTANT, } Secretaries.

THE SECOND CONSTITUTION OF THE STATE OF NEW YORK.

We, the people of the state of New York, acknowledging with gratitude the grace and beneficence of God, in permitting us to make choice of our form of government, do establish this constitution.

ARTICLE I.

SECTION 1. The legislative power of this state, shall be vested in a senate and an assembly. Legisla-
ture.

§ 2. The senate shall consist of thirty-two members. The senators shall be chosen for four years, and shall be freeholders. The assembly shall consist of one hundred and twenty-eight members, who shall be annually elected. Senate.
Assembly.

§ 3. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the qualifications of its own members. Each house shall choose its own officers; and the senate shall choose a temporary president, when the lieutenant-governor shall not attend as president, or shall act as governor. Quorum.
Powers of
each house.
Officers.

§ 4. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days. Journals to
be kept, &c.

§ 5. The state shall be divided into eight districts, to be called senate districts, each of which shall choose four senators. Senatorial
districts.

The first district shall consist of the counties of Suffolk, Queens, Kings, Richmond, and New York. No. 1.

The second district, shall consist of the counties of Westchester, Putnam, Dutchess, Rockland, Orange, Ulster, and Sullivan. No. 2.

The third district, shall consist of the counties of Greene, Columbia, Albany, Rensselaer, Schoharie, and Schenectady. No. 3.

The fourth district, shall consist of the counties of Saratoga, Montgomery, Hamilton, Washington, Warren, Clinton, Essex, Franklin, and St. Lawrence. No. 4.

The fifth district, shall consist of the counties of Herkimer, Oneida, Madison, Oswego, Lewis, and Jefferson. No. 5.

The sixth district, shall consist of the counties of Delaware, Otsego, Chenango, Broome, Cortland, Tompkins, and Tioga. No. 6.

The seventh district, shall consist of the counties of Onondaga, Cayuga, Seneca, and Ontario. No. 7.

The eighth district, shall consist of the counties of Steuben, Livingston, Monroe, Genesee, Niagara, Erie, Allegany, Cattaraugus, and Chautauqua. No. 8.

And as soon as the senate shall meet, after the first election to be held in pursuance of this constitution, they shall cause the senators to be divided by lot, into four classes, of eight in each, so that every district shall have one senator of each class; the classes to be numbered, one, two, three, and four. And the seats of the first class, shall be vacated at the end of the first year; of the second class, at the end of the second year; of the third class, at the end of the third year; of the fourth class, at the end of the fourth year; in order that one senator be annually elected in each senate district. Senate to
be divided
into
classes.

- Census, when to be taken.** § 6. An enumeration of the inhabitants of the state, shall be taken, under the direction of the legislature, in the year one thousand eight hundred and twenty-five, and at the end of every ten years thereafter; and the said districts shall be so altered by the legislature, at the first session after the return of every enumeration, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, paupers and persons of colour not taxed; and shall remain unaltered, until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district.
- Districts to be altered.**
- To remain unaltered.** § 7. The members of the assembly shall be chosen by counties, and shall be apportioned among the several counties of the state, as nearly as may be, according to the numbers of their respective inhabitants, excluding aliens, paupers, and persons of colour not taxed. An apportionment of members of assembly, shall be made by the legislature, at its first session after the return of every enumeration; and when made, shall remain unaltered until another enumeration shall have been taken. But an apportionment of members of the assembly, shall be made by the present legislature, according to the last enumeration taken under the authority of the United States, as nearly as may be. Every county heretofore established, and separately organized, shall always be entitled to one member of the assembly; and no new county shall hereafter be erected, unless its population shall entitle it to a member.
- Members of assembly to be apportioned.**
- Each county entitled to one member.** § 8. Any bill may originate in either house of the legislature; and all bills passed by one house may be amended by the other.
- Bills.**
- Pay of members.** § 9. The members of the legislature, shall receive for their services, a compensation to be ascertained by law, and paid out of the public treasury; but no increase of the compensation shall take effect, during the year in which it shall have been made. And no law shall be passed, increasing the compensation of the members of the legislature, beyond the sum of three dollars a day.
- No member to receive appointments.** § 10. No member of the legislature, shall receive any civil appointment from the governor and senate, or from the legislature, during the term for which he shall have been elected.
- Persons disqualified from being members.** § 11. No person, being a member of congress, or holding any judicial or military office under the United States, shall hold a seat in the legislature. And if any person shall, while a member of the legislature, be elected to congress, or appointed to any office, civil or military, under the government of the United States; his acceptance thereof, shall vacate his seat.
- Bills to be presented to the governor. If returned by him with objections, how disposed of.** § 12. Every bill which shall have passed the senate and assembly, shall, before it become a law, be presented to the governor: if he approve, he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated; who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members present, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for, and against, the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.
- Effect, if not returned within ten days.**
- Certain officers may be re-** § 13. All officers holding their offices during good behavior may be removed by joint resolution, of the two houses of the legislature, if two-

thirds of all the members elected to the assembly, and a majority of all the members elected to the senate, concur therein.

moved by joint resolution. Legislature when to meet.

§ 14. The political year shall begin on the first day of January; and the legislature shall every year, assemble on the first Tuesday of January, unless a different day shall be appointed by law.

Time of annual election.

§ 15. The next election for governor, lieutenant-governor, senators, and members of assembly, shall commence on the first Monday of November, one thousand eight hundred and twenty-two; and all subsequent elections, shall be held at such time, in the month of October or November, as the legislature, shall by law, provide.

New officers.

Existing officers.

§ 16. The governor, lieutenant-governor, senators, and members of assembly, first elected under this constitution, shall enter on the duties of their respective offices, on the first day of January, one thousand eight hundred and twenty-three; and the governor, lieutenant-governor, senators and members of assembly, now in office, shall continue to hold the same, until the first day of January, one thousand eight hundred and twenty-three, and no longer.

ARTICLE II.

SECTION 1. [Every male citizen, of the age of twenty-one years, who shall have been an inhabitant of this state one year preceding any election, and for the last six months a resident of the town or county where he may offer his vote; and shall have, within the year next preceding the election, paid a tax to the state or county, assessed upon his real or personal property; or shall by law be exempted from taxation; or being armed and equipped according to law, shall have performed within that year, military duty in the militia of this state; or who shall be exempted from performing militia duty in consequence of being a fireman in any city, town or village in this state: and also, every male citizen of the age of twenty-one years, who shall have been, for three years next preceding such election, an inhabitant of this state; and for the last year, a resident in the town or county, where he may offer his vote; and shall have been, within the last year, assessed to labor upon the public highways, and shall have performed the labor, or paid an equivalent therefor, according to law, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be, elective by the people:]* but no man of colour, unless he shall have been for three years a citizen of this state, and for one year next preceding any election, shall be seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon; and shall have been actually rated, and paid a tax thereon, shall be entitled to vote at any such election. And no person of colour shall be subject to direct taxation unless he shall be seized, and possessed of such real estate as aforesaid.

Qualifications of electors.

Freehold required for men of colour.

§ 2. Laws may be passed excluding from the right of suffrage, persons who have been, or may be, convicted of infamous crimes.

Who may be excluded.

§ 3. Laws shall be made for ascertaining by proper proofs, the citizens who shall be entitled to the right of suffrage, hereby established.

Proofs of right to vote.

§ 4. All elections by the citizens, shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

Elections to be by ballot.

ARTICLE III.

SECTION 1. The executive power shall be vested in a governor. He shall hold his office for two years; and a lieutenant-governor shall be chosen at the same time, and for the same term.

Executive power.

* So much of this article as is inclosed thus, () was abolished in 1826. See amendment No. 2.

Qualifications of the governor.

§ 2. No person, except a native citizen of the United States, shall be eligible to the office of governor; nor shall any person be eligible to that office, who shall not be a freeholder, and shall not have attained the age of thirty years, and have been five years a resident within this state; unless he shall have been absent during that time, on public business of the United States, or of this state.

Elections of governor and lieutenant-governor.

§ 3. The governor and lieutenant-governor shall be elected at the times and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant-governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for governor, or for lieutenant-governor, the two houses of the legislature, shall, by joint ballot, choose one of the said persons so having an equal and the highest number of votes, for governor, or lieutenant-governor.

Duties and powers of the governor.

§ 4. The governor shall be general and commander-in-chief of all the militia, and admiral of the navy of the state. He shall have power to convene the legislature (or the senate only), on extraordinary occasions. He shall communicate by message to the legislature at every session, the condition of the state; and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed. He shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished, during the term for which he shall have been elected.

His compensation.

Pardoning power.

§ 5. The governor shall have power to grant reprieves and pardons after conviction, for all offences, except treason and cases of impeachment. Upon convictions for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the legislature at its next meeting; when the legislature shall either pardon, or direct the execution of the criminal, or grant a farther reprieve.

When powers of the governor devolve on the lieutenant-governor.

§ 6. In case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the state, the powers and duties of the office shall devolve upon the lieutenant-governor, for the residue of the term, or until the governor absent or impeached, shall return, or be acquitted. But when the governor shall, with the consent of the legislature, be out of the state, in time of war, at the head of a military force thereof, he shall still continue commander-in-chief of all the military force of the state.

President of the senate. To act as governor in certain cases.

§ 7. The lieutenant-governor shall be president of the senate, but shall have only a casting vote therein. If during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the senate shall act as governor, until the vacancy shall be filled, or the disability shall cease.

ARTICLE IV.

Manner of choosing or appointing militia officers.

SECTION 1. Militia officers shall be chosen, or appointed as follows: captains, subalterns, and non-commissioned officers, shall be chosen by the written votes of the members of their respective companies. Field officers of regiments and separate battalions, by the written votes of the commissioned officers of the respective regiments, and separate battalions. Brigadier-generals, by the field officers of their respective brigades. Major-generals, brigadier-generals, and commanding officers of regiments or separate battalions, shall appoint the staff officers of their respective divisions, brigades, regiments, or separate battalions.

Officers to be appointed by the

§ 2. The governor shall nominate, and with the consent of the senate, appoint all major-generals, brigade-inspectors, and chiefs of the staff

departments, except the adjutant-general, and commissary-general. The adjutant-general shall be appointed by the governor.

governor and senate.

§ 3. The legislature, shall by law, direct the time and manner of electing militia officers, and of certifying their elections to the governor.

Election of militia officers.

§ 4. The commissioned officers of the militia, shall be commissioned by the governor; and no commissioned officer shall be removed from office, unless by the senate on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, pursuant to law. The present officers of the militia shall hold their commission, subject to removal as before provided.

Officers, how commissioned.

§ 5. In case the mode of election and appointment of militia officers, hereby directed, shall not be found conducive to the improvement of the militia, the legislature may abolish the same, and provide by law for their appointment and removal, if two-thirds of the members present in each house, shall concur therein.

Election of militia officers may be abolished.

§ 6. The secretary of state, comptroller, treasurer, attorney-general, surveyor-general, and commissary-general, shall be appointed as follows: The senate and assembly shall each openly nominate one person for the said offices respectively: after which, they shall meet together, and if they shall agree in their nominations, the person so nominated shall be appointed to the office for which he shall be nominated. If they shall disagree, the appointment shall be made by the joint ballot of the senators and members of assembly. The treasurer shall be chosen annually. The secretary of state, comptroller, attorney-general, surveyor-general, and commissary-general, shall hold their offices for three years, unless sooner removed by concurrent resolution of the senate and assembly.

State officers, how appointed.

§ 7. The governor shall nominate, by message, in writing, and with the consent of the senate, shall appoint, all judicial officers, except justices of the peace, [who shall be appointed in manner following, that is to say: The board of supervisors in every county in this state, shall, at such times as the legislature may direct, meet together; and they, or a majority of them so assembled, shall nominate so many persons as shall be equal to the number of justices of the peace to be appointed in the several towns in the respective counties. And the judges of the respective county courts, or a majority of them, shall also meet and nominate a like number of persons; and it shall be the duty of the said board of supervisors, and judges of county courts, to compare such nominations, at such time and place as the legislature may direct: And if on such comparison, the said boards of supervisors and judges of county courts, shall agree in their nominations, in all, or in part, they shall file a certificate of the nominations in which they shall agree, in the office of the clerk of the county; and the person or persons named in such certificates, shall be justices of the peace: And in case of disagreement in whole, or in part, it shall be the farther duty of the said boards of supervisors, and judges respectively, to transmit their said nominations, so far as they disagree in the same, to the governor, who shall select from the said nominations, and appoint so many justices of the peace, as shall be requisite to fill the vacancies.]*

Terms of office.

Officers to be appointed by governor and senate.

Justices of peace, how appointed.

Every person appointed a justice of the peace, shall hold his office for four years, unless removed by the county court, for causes particularly assigned by the judges of the said court. And no justice of the peace shall be removed, until he shall have notice of the charges made against him, and an opportunity of being heard in his defence.

Term of office: how removed.

§ 8. Sheriffs and clerks of counties, including the register and clerk of the city and county of New York, shall be chosen by the electors of the respective counties, once in every three years, and as often as

Sheriffs, clerks of counties and register and clerk of N. Y.

* So much of § 7 as is embraced in [] was rescinded in 1826. See amendment No. 1.

- Security
How removed
Clerks of courts, and district attorneys.
Mayors of cities.
Coroners.
Masters and examiners in chancery.
Register, &c.
Clerk of oyer and terminer in N. Y.
Other officers.
Special and assistant justices and clerks in N. Y.
Officers to be elected or appointed.
Duration of offices.
- vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of their offices. They may be required by law, to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff: and the governor may remove any such sheriff, clerk, or register, at any time within the three years for which he shall be elected, giving to such sheriff, clerk, or register, a copy of the charge against him, and an opportunity of being heard in his defence, before any removal shall be made.¹
- § 9. The clerks of courts, except those clerks whose appointment is provided for in the preceding section, shall be appointed by the courts of which they respectively are clerks; and district attorneys, by the county courts. Clerks of courts and district attorneys, shall hold their offices for three years, unless sooner removed by the courts appointing them.
- § 10. The mayors of all the cities in this state shall be appointed annually, by the common councils of the respective cities.²
- § 11. So many coroners as the legislature may direct, not exceeding four in each county, shall be elected in the same manner as sheriffs, and shall hold their offices for the same term, and be removable in like manner.
- § 12. The governor shall nominate, and with the consent of the senate, appoint masters and examiners in chancery; who shall hold their offices for three years, unless sooner removed by the senate, on the recommendation of the governor. The register and assistant registers, shall be appointed by the chancellor, and hold their offices during his pleasure.
- § 13. The clerk of the court of oyer and terminer, and general sessions of the peace, in and for the city and county of New York, shall be appointed by the court of general sessions of the peace in said city, and hold his office during the pleasure of the said court: and such clerks and other officers of courts, whose appointment is not herein provided for, shall be appointed by the several courts, or by the governor, with the consent of the senate, as may be directed by law.
- § 14. The special justices, and the assistant justices, and their clerks, in the city of New York, shall be appointed by the common council of the said city; and shall hold their offices for the same term, that the justices of the peace, in the other counties of this state, hold their offices, and shall be removable in like manner.
- § 15. All officers heretofore elective by the people, shall continue to be elected; and all other officers, whose appointment is not provided for, by this constitution, and all officers, whose offices may be hereafter created by law, shall be elected by the people, or appointed, as may by law be directed.
- § 16. Where the duration of any office is not prescribed by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

ARTICLE V.

Court for the trial of impeachments; and the correction of errors.

SECTION 1. The court for the trial of impeachments, and the correction of errors, shall consist of the president of the senate, the senators, the chancellor, and the justices of the supreme court, or the major part of them; but when an impeachment shall be prosecuted against the chancellor, or any justice of the supreme court, the person so impeached, shall be sus-

¹ Amended as to city of New York. See amendment No. 4.
² 2 Wend., 268. 11 Wend., 132, 512.

pended from exercising his office, until his acquittal; and when an appeal from a decree in chancery shall be heard, the chancellor shall inform the court of the reasons for his decree, but shall have no voice in the final sentence; and when a writ of error shall be brought, on a judgment of the supreme court, the justices of that court, shall assign the reasons for their judgment, but shall not have a voice for its affirmance or reversal.

§ 2. The assembly shall have the power of impeaching all civil officers of this state for mal and corrupt conduct in office, and for high crimes and misdemeanors: but a majority of all the members elected, shall concur in an impeachment. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try and determine the charge in question, according to evidence; and no person shall be convicted, without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend farther than the removal from office, and disqualification to hold, and enjoy, any office of honor, trust or profit, under this state; but the party convicted, shall be liable to indictment, and punishment, according to law.

Power of impeachment vested in the assembly.

§ 3. The chancellor and justices of the supreme court, shall hold their offices during good behavior, or until they shall attain the age of sixty years.

Chancellor, &c.

§ 4. The supreme court shall consist of a chief-justice, and two justices, any of whom may hold the court.

Supreme court.

§ 5. The state shall be divided, by law, into a convenient number of circuits, not less than four, nor exceeding eight, subject to alteration, by the legislature, from time to time, as the public good may require; for each of which, a circuit-judge shall be appointed, in the same manner, and hold his office by the same tenure, as the justices of the supreme court; and who shall possess the powers of a justice of the supreme court at chambers, and in the trial of issues joined in the supreme court; and in courts of oyer and terminer, and gaol delivery. And such equity powers may be vested in the said circuit-judges, or in the county courts, or in such other subordinate courts, as the legislature may by law direct, subject to the appellate jurisdiction of the chancellor.

Circuit judges.

§ 6. Judges of the county courts, and recorders of cities shall hold their offices for five years, but may be removed by the senate, on the recommendation of the governor, for causes to be stated in such recommendation.

Judges of county courts, &c.

§ 7. Neither the chancellor, nor justices of the supreme court, nor any circuit-judge, shall hold any other office or public trust. All votes for any elective office, given by the legislature or the people, for the chancellor, or a justice of the supreme court, or circuit-judge, during his continuance in his judicial office, shall be void.

Chancellor and judges to hold no other office.

ARTICLE VI.

SECTION 1. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

Oath of office prescribed.

I do solemnly swear, (or affirm, as the case may be,) that I will support the constitution of the United States, and the constitution of the state of New York; and that I will faithfully discharge the duties of the office of _____ according to the best of my ability.

And no other oath, declaration, or test, shall be required as a qualification for any office or public trust.

ARTICLE VII.

No person
to be dis-
franchised.

SECTION 1. No member of this state shall be disfranchised, or deprived of any of the rights or privileges, secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

Trial by
jury.
New
courts.

§ 2. The trial by jury, in all cases in which it has been heretofore used, shall remain inviolate forever; and no new court shall be instituted, but such as shall proceed according to the course of the common law; except such courts of equity, as the legislature is herein authorized to establish.¹

Free enjoy-
ment of
religious
worship.

§ 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state, to all mankind; but the liberty of conscience hereby secured, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace, or safety of this state.

Ministers
of the gos-
pel to hold
no office.

§ 4. AND WHEREAS, the ministers of the gospel are, by their profession, dedicated to the service of God, and the cure of souls, and ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding, any civil or military office or place within this state.

Militia to
be armed
and dis-
ciplined.

§ 5. The militia of this state, shall, at all times hereafter, be armed and disciplined, and in readiness for service; but all such inhabitants of this state, of any religious denomination whatever, as from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, by paying to the state an equivalent in money; and the legislature shall provide by law, for the collection of such equivalent, to be estimated according to the expense, in time, and money, of an ordinary, able-bodied militia-man.

Writ of
habeas
corpus.

§ 6. The privilege of the writ of habeas-corpus, shall not be suspended, unless when in case of rebellion, or invasion, the public safety may require its suspension.

Proceed-
ings in
criminal
cases.

§ 7. No person shall be held to answer for a capital or otherwise infamous crime, (except in cases of impeachment; and in cases of the militia, when in actual service, and the land and naval forces in time of war, or which this state may keep, with the consent of congress, in time of peace; and in cases of petit larceny, under the regulation of the legislature;) unless on presentment, or indictment of a grand jury; and in every trial on impeachment or indictment, the party accused shall be allowed counsel as in civil actions. No person shall be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law: nor shall private property be taken for public use, without just compensation.²

§ 8. Every citizen may freely speak, write, and publish his sentiments, on all subjects, being responsible for the abuse of that right; and no law shall be passed, to restrain, or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libels, the truth may be given in evidence, to the jury; and if it shall appear to the jury, that the matter charged as libellous, is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Property
secured.

Freedom of
speech and
of the press
secured.

Two-third
bills.

§ 9. The assent of two-thirds of the members elected to each branch of the legislature, shall be requisite to every bill appropriating the public moneys or property, for local or private purposes, or creating, continuing, altering, or renewing, any body politic or corporate.

¹ Wend., 449.

² 8 Wend., 85; 10 Wend., 449.

§ 10. The proceeds of all lands belonging to this state, except such parts thereof as may be reserved or appropriated to public use, or ceded to the United States, which shall hereafter be sold or disposed of, together with the fund denominated the common school fund, shall be and remain a perpetual fund; the interest of which, shall be inviolably appropriated and applied to the support of common schools throughout this state. Rates of toll, not less than those agreed to, by the canal commissioners, and set forth in their report to the legislature of the twelfth of March, one thousand eight hundred and twenty-one, shall be imposed on, and collected from all parts of the navigable communications between the great western and northern lakes, and the Atlantic ocean, which now are, or hereafter shall be made and completed: and the said tolls, together with the duties on the manufacture of all salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen; and the duties on goods sold at auction, excepting therefrom the sum of thirty-three thousand five hundred dollars, otherwise appropriated by the said act; and the amount of the revenue, established by the act of the legislature of the thirtieth of March, one thousand eight hundred and twenty, in lieu of the tax upon steamboat passengers; shall be and remain inviolably appropriated and applied to the completion of such navigable communications, and to the payment of the interest, and reimbursement of the capital, of the money already borrowed, or which hereafter shall be borrowed, to make and complete the same. And neither the rates of toll on the said navigable communications, nor the duties on the manufacture of salt aforesaid, nor the duties on goods sold at auction, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, nor the amount of the revenue, established by the act of March the thirtieth, one thousand eight hundred and twenty, in lieu of the tax upon steamboat passengers, shall be reduced or diverted, at any time before the full and complete payment of the principal and interest of the money borrowed, or to be borrowed, as aforesaid. And the legislature shall never sell, or dispose of the salt springs belonging to this state, nor the lands contiguous thereto, which may be necessary, or convenient, for their use, nor the said navigable communications, or any part or section thereof; but the same shall be and remain the property of this state.¹

Common school fund.

Rates of toll.

Rates of toll, &c. not to be reduced till canal debt is paid.

Salt springs never to be sold.

§ 11. No lottery shall hereafter be authorized in this state; and the legislature shall pass laws to prevent the sale of all lottery tickets within this state, except in lotteries already provided for by law.

Lotteries prohibited.

§ 12. No purchase or contract for the sale of lands in this state, made since the fourteenth day of October, one thousand seven hundred and seventy-five, or which may hereafter be made, of, or with the Indians in this state, shall be valid, unless made under the authority, and with the consent of the legislature.

Purchases of lands from Indians.

§ 13. Such parts of the common law, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the congress of the said colony, and of the convention of the state of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed, or altered; and such acts of the legislature of this state, as are now in force, shall be and continue the law of this state, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this constitution, are hereby abrogated.

Parts of the common law and acts of the colonial legislature, &c. declared law.

¹ Amended. See amendments Nos. 3 and 5. Chap. 262, Laws of 1819, §§ 5, 7. Chap. 117, Laws of 1820, § 2.

Certain grants of lands made by the king of Great Britain declared void.

Certain rights not affected.

§ 14. All grants of land within this state, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void: but nothing contained in this constitution, shall affect any grants of land within this state, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day: or shall affect any such grants or charters since made by this state, or by persons acting under its authority; or shall impair the obligation of any debts contracted by the state, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

ARTICLE VIII.

Provision for future amendments to this constitution.

SECTION 1. Any amendment, or amendments to this constitution, may be proposed in the senate or assembly, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments, shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen; and shall be published, for three months previous to the time of making such choice; and, if in the legislature next chosen as aforesaid, such proposed amendment, or amendments, shall be agreed to, by two-thirds of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment, or amendments, to the people, in such manner, and at such time, as the legislature shall prescribe: and if the people shall approve and ratify such amendment, or amendments, by a majority of the electors qualified to vote for members of the legislature, voting thereon, such amendment, or amendments, shall become part of the constitution.

ARTICLE IX.

When constitution takes effect.

SECTION 1. This constitution shall be in force, from the last day of December, in the year one thousand eight hundred and twenty-two. But all those parts of the same, which relate to the right of suffrage; the division of the state, into senate-districts; the number of members of the assembly to be elected, in pursuance of this constitution; the apportionment of members of assembly; the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two; the continuance of the members of the present legislature in office, until the first day of January, in the year one thousand eight hundred and twenty-three; and the prohibition against authorizing lotteries; the prohibition against appropriating the public moneys, or property, for local or private purposes, or creating, continuing, altering, or renewing any body politic or corporate, without the assent of two-thirds of the members elected to each branch of the legislature, shall be in force, and take effect, from the last day of February next. The members of the present legislature, shall, on the first Monday of March next, take and subscribe an oath or affirmation, to support this constitution, so far as the same shall then be in force. Sheriffs, clerks of counties, and coroners, shall be elected at the election hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two; but they shall not enter on the duties of their offices, before the first day of January then next following. The commissions of all persons holding civil offices on the last day of December, one thousand eight hundred and twenty-two, shall expire on that day; but the officers then in commission, may respectively continue to hold their said offices until new appointments, or elections, shall take place under this constitution.

When present commissions expire.

§ 2. The existing laws relative to the manner of notifying, holding, and conducting elections, making returns, and canvassing votes, shall be in force, and observed in respect to the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two; so far as the same are applicable. And the present legislature shall pass such other and further laws, as may be requisite for the execution of the provisions of this constitution, in respect to elections. Election laws.

Done in convention, at the Capitol in the city of Albany, the tenth day of November, in the year one thousand eight hundred and twenty-one, and of the independence of the United States of America, the forty-sixth. In witness whereof, we have hereunto subscribed our names. DANIEL D. TOMPKINS,
President, and Delegate from the county of Richmond.

JOHN F. BACON, } Secretaries.
SAMUEL S. GARDINER, }

[The following delegates composed the convention which framed the foregoing constitution.]

- | | |
|--|--|
| <p><i>Suffolk.</i>
Usher H. Moore,
Ebenezer Sage,
Joshua Smith.
<i>Queens.</i>
Rufus King,
Nath'l Seaman,
Elbert H. Jones.*
<i>Kings.</i>
John Lefferts.
<i>Richmond.</i>
Daniel D. Tompkins.
<i>New York.</i>
Jacobus Dyckman,
Ogden Edwards,
James Fairlie,
Jno. L. Lawrence,
William Paulding, Jun.,
Jacob Radcliff,
Nathan Sanford,
Peter Sharpe,
Peter Stagg,
P. H. Wendover,
H. Wheaton.
<i>Westchester.</i>
Peter A. Jay,*
Peter Jay Munro,
Jonathan Ward.
<i>Putnam.</i>
Joel Frost.
<i>Dutchess.</i>
Elisha Barlow,
Isaac Hunting,
Peter R. Livingston,
Abram H. Schenck,
James Tallmadge, Jun.</p> | <p><i>Orange.</i>
John Duer,
John Hallock, Jun.,
Peter Milliken,
Benjamin Woodward.
<i>Ulster and Sullivan.</i>
Daniel Clark,
Jonathan Dubois,
James Hunter,
Henry Jansen.†
<i>Greene.</i>
Jehiel Tuttle,
Alpheus Webster.*
<i>Columbia.</i>
Francis Sylvester,*
William W. Van Ness,*
Jacob R. Van Rensselaer,*
Elisha Williams.*
<i>Albany.</i>
James Kent,*
Ambrose Spencer,*
Stephen Van Rensselaer,*
Abram Van Vechten.*
<i>Rensselaer.</i>
Jirah Baker,
David Buel, Jun.,
James L. Hogeboom,
John Reeve,
John W. Woods.
<i>Schoharie.</i>
Olney Briggs,
Asa Starkweather,
Jacob Sutherland.
<i>Schenectady.</i>
John Sanders,*
Henry Yates, Jun.</p> |
|--|--|

* Pursuant to a resolution of the convention, the constitution was signed by all the members except those whose names are designated by an asterisk.
† Mr. Jansen died during the sitting of the convention.

Rockland.
 Samuel G. Verbryck,
 John Cramer,
 Jeremy Rockwell,
 Samuel Young.

Montgomery.
 William Irving Dodge,
 Howland Fish,*
 Jacob Hees,*
 Philip Rhinelander, Jun.,*
 Alex'r Sheldon.

Washington and Warren.
 Alexander Livingston,
 Nathaniel Pitcher,
 John Richards,
 Wm. Townsend,
 Melancton Wheeler.

Essex.
 Reuben Sanford.
Clinton and Franklin.
 Nathan Carver.

St. Lawrence.
 Jason Fenton.

Herkimer.
 Sanders Lansing,
 Richard Van Horne,*
 Sherman Wooster.

Oneida.
 Ezekiel Bacon,
 Samuel S. Breese,*
 Henry Huntington,
 Jonas Platt,*
 Nathan Williams.

Madison.
 Barak Beckwith,
 John Knowles,
 Edward Rogers.

Lewis.
 Ela Collins.

Jefferson.
 Hiram Steele,
 Egbert Ten Eyck.

Delaware.
 Robert Clarke,*
 Erastus Root.

Otsego.
 Joseph Clyde,
 Ransom Hunt,
 William Park,

Saratoga.
 Salmon Child,
 David Tripp,
 Martin Van Buren.

Chenango.
 Thomas Humphrey,*
 Jarvis K. Pike,
 Nathan Taylor.

Broome.
 Charles Pumpelly.

Cortland.
 Samuel Nelson.
Tompkins.
 Richard Smith,
 Richard Townley.

Tioga.
 Matthew Carpenter.

Onondaga.
 Victory Birdseye,
 Ameri Case,
 Asa Eastwood,
 Parley E. Howe.

Cayuga.
 David Brinkerhoff,
 Rowland Day,*
 Augustus F. Ferris.

Seneca.
 Robert S. Rose,
 Jonas Seely.

Ontario.
 Micah Brooks,
 John Price,*
 Philetus Swift,
 David Sutherland,*
 Joshua Van Fleet.

Steuben and Allegany.
 Timothy Hurd,
 James McCall.

Livingston.
 James Rosebrugh.

Monroe.
 John Bowman.

Genesee.
 David Burroughs,
 John Z. Ross,
 Elizur Webster.

Erie, Niagara, etc.
 Augustus Porter,
 Samuel Russell.

[The foregoing constitution was ratified by the people, at an election held in the several towns and wards of this state, on the fifteenth, sixteenth and seventeenth days of January, one thousand eight hundred and twenty-two.]

* Pursuant to a resolution of the convention, the constitution was signed by all the members except those whose names are designated by an asterisk.

AMENDMENTS.

The following amendments to the constitution were proposed by the legislature in 1825, were referred to the legislature of 1826, agreed to by two-thirds of the members elected to each house of that legislature, submitted to the people, and approved and ratified at an election, held on the sixth, seventh and eighth days of November, 1826.]

FIRST AMENDMENT.

That the people of this state in their several towns, shall at their annual election, and in such manner as the legislature shall direct, elect by ballot their justices of the peace, and the justices so elected in any town shall immediately thereafter meet together, and in presence of the supervisor and town clerk of the said town, be divided by lot into four classes, of one in each class, and be numbered one, two, three and four; and the office of number one shall expire at the end of the first year; of number two at the end of the second year; of number three at the end of the third year; and of number four at the end of the fourth year, in order that one justice may thereafter be annually elected; and that so much of the seventh section of the fourth article of the constitution of this state as is inconsistent with this amendment, be abrogated.

Justices of the peace, how elected.

SECOND AMENDMENT.

That so much of the first section of the second article of the constitution as prescribes the qualifications of voters, other than persons of colour, be and the same is hereby abolished, and that the following be substituted in the place thereof:

Every male citizen of the age of twenty-one years, who shall have been an inhabitant of this state, one year next preceding any election, and for the last six months a resident of the county where he may offer his vote, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be elective by the people.

Qualifications of electors.

[The following amendments were proposed in 1833, agreed to by two-thirds of the members elected to each house in 1833, submitted to the people, and approved and ratified at the election in November, 1833.]

AMENDMENT No. III.

That the duties on the manufacture of salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, and by the tenth section of the seventh article of the constitution of this state, may at any time hereafter, be reduced by an act of the legislature of this state; but shall not, while the same is appropriated and pledged by the said section, be reduced below the sum of six cents upon each and every bushel; and the said duties shall remain inviolably appropriated and applied as is provided by the said tenth section:

Duties on salt may be reduced.

And that so much of the said tenth section of the seventh article of the constitution of this state as is inconsistent with this amendment, be abrogated.

AMENDMENT No. IV.

At the end of the tenth section of the fourth article of the said constitution, add the following words: "Except in the city of New York, in which city the mayor shall be chosen annually by the electors thereof qualified to vote for the other charter officers of the said city, and at the time of the election of such officers."

Mayor of N. York to be chosen by the electors thereof.

[The following amendment was proposed in 1834, agreed to by two-thirds of the members elected to each house in 1835, submitted to the people and approved and ratified at the election held in November, 1835.]

AMENDMENT No. V.

Duties on salt and on goods sold at auction, when restored to general fund.

Whenever a sufficient amount of money shall be collected and safely invested for the reimbursement of such part as may then be unpaid of the money borrowed for the construction of the Erie and Champlain canals, the tenth section of the seventh article of the constitution of this state, as far as it relates to the amount of duties on the manufacture of salt, and the amount of duties on goods sold at auction, shall cease and determine; and thereafter the duties on goods sold at auction, excepting therefrom the sum of thirty-three thousand five hundred dollars otherwise appropriated by the act of the fifteenth of April, one thousand eight hundred and seventeen, and the duties on the manufacture of salt, shall be restored to the general fund.

[The following amendment was proposed in 1837, agreed to by two-thirds of the members elected to each house in the year 1838, submitted to the people and approved and ratified at the election in November, 1839.]

AMENDMENT No. VI.

Mayors of cities may be elected by inhabitants.

Mayors of the several cities in this state, may be elected annually by the male inhabitants entitled to vote for members of the common councils of such cities respectively, in such manner as the legislature shall by law provide; and the legislature may, from time to time, make such provision by law for the election of any one or more of such mayors; but until such provision be made by law, such mayors (except the mayor of the city of New York,) shall be appointed in the manner now prescribed by the constitution of this state; and so much of the tenth section of article fourth of the constitution of this state, as is inconsistent with this amendment, is hereby abrogated.

THE THIRD CONSTITUTION OF THE STATE OF NEW YORK.

AS ADOPTED NOVEMBER 3, 1846.

[No amendments are included in this copy.]

WE, THE PEOPLE of the state of New York, grateful to Almighty God for our freedom, in order to secure its blessings, DO ESTABLISH THIS CONSTITUTION.

ARTICLE I.

No person to be disfranchised.

SECTION 1. No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers.

Trial by jury.

§ 2. The trial by jury, in all cases in which it has been heretofore used, shall remain inviolate forever. But a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law.

Religious liberty.

§ 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state, to all mankind: and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of this state.

Habeas corpus.

§ 4. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

Bail, fines, &c.

§ 5. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

§ 6. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia, when in actual service; and the land and naval forces in time of war, or which this state may keep with the consent of congress in time of peace; and in cases of petit larceny, under the regulation of the legislature), unless on presentment or indictment of a grand jury, and in any trial in any court whatever, the party accused shall be allowed to appear and defend in person and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Bill of rights.

§ 7. When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the state, shall be ascertained by a jury, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited.

Private property and roads.

§ 8. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury, that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Freedom of speech and the press.

§ 9. The assent of two-thirds of the members elected to each branch of the legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

Two-third bills.

§ 10. No law shall be passed abridging the right of the people peaceably to assemble, and to petition the government, or any department thereof; nor shall any divorce be granted otherwise than by due judicial proceedings; nor shall any lottery hereafter be authorized, or any sale of lottery tickets allowed within this state.

Right to petition.
Divorces.
Lotteries.

§ 11. The people of this state, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the state; and all lands, the title to which shall fail, from a defect of heirs, shall revert or escheat to the people.

Eminent domain.

§ 12. All feudal tenures of every description, with all their incidents, are declared to be abolished, saving, however, all rents and services certain, which at any time heretofore have been lawfully created or reserved.

Feudal tenures.

§ 13. All lands within this state are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates.

All lands allodial.

§ 14. No lease or grant of agricultural land, for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

Certain leases limited.

§ 15. All fines, quarter sales, or other like restraints upon alienation, reserved in any grant of land hereafter to be made, shall be void.

Fines and quarter sales abolished.

§ 16. No purchase or contract for the sale of lands in this state, made since the fourteenth day of October, one thousand seven hundred and

Certain purchases.

From In-
dians void.

seventy-five; or which may hereafter be made, of, or with the Indians, shall be valid, unless made under the authority and with the consent of the legislature.

Parts of the
common
law, acts
and stat-
utes de-
clared to
be law.

§ 17. Such parts of the common law, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the congress of the said colony, and of the convention of the state of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed, or altered; and such acts of the legislature of this state as are now in force, shall be and continue the law of this state, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this constitution, are hereby abrogated; and the legislature, at its first session after the adoption of this constitution, shall appoint three commissioners, whose duty it shall be to reduce into a written and systematic code the whole body of the law of this state, or so much and such parts thereof as to the said commissioners shall seem practicable and expedient. And the said commissioners shall specify such alterations and amendments therein as they shall deem proper, and they shall at all times make reports of their proceedings to the legislature, when called upon to do so; and the legislature shall pass laws regulating the tenure of office, the filling of vacancies therein, and the compensation of the said commissioners; and shall also provide for the publication of the said code, prior to its being presented to the legislature for adoption.

Code.

Grants of
land by the
king of
Great
Britain
void.

Certain
rights not
affected.

§ 18. All grants of land within this state, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this constitution shall affect any grants of land within this state, made by the authority of the said king, or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day; or shall affect any such grants or charters since made by this state, or by persons acting under its authority, or shall impair the obligation of any debts contracted by this state, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

ARTICLE II.

Qualifica-
tion of
electors.

SECTION 1. Every male citizen of the age of twenty-one years, who shall have been a citizen for ten days, and an inhabitant of this state one year next preceding any election, and for the last four months a resident of the county where he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elected by the people; but such citizen shall have been for thirty days next preceding the election, a resident of the district from which the officer is to be chosen for whom he offers his vote. But no man of color, unless he shall have been for three years a citizen of this state, and for one year next preceding any election shall have been seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon, and shall have been actually rated and paid a tax thereon, shall be entitled to vote at such election. And no person of color shall be subject to direct taxation unless he shall be seized and possessed of such real estate as aforesaid.*

Freehold
for persons
of color.

* [The following amendment was adopted in March, 1864:]
Section one of article two is hereby amended by adding at the end thereof the following words:
Provided, that in time of war no elector, in the actual military service of the United States, in

§ 2. Laws may be passed, excluding from the right of suffrage all persons who have been or may be convicted of bribery, larceny, or of any infamous crime; and for depriving every person who shall make, or become directly or indirectly interested in, any bet or wager depending upon the result of any election, from the right to vote at such election.

Who may be excluded from suffrage.

§ 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, at public expense; nor while confined in any public prison.

Residence of voters.

§ 4. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.

Proofs of right to vote.

§ 5. All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

Ballot.

ARTICLE III.

SECTION 1. The legislative power of this state shall be vested in a senate and assembly.

Legislature

§ 2. The senate shall consist of thirty-two members, and the senators shall be chosen for two years.

Senate, number of.

The assembly shall consist of one hundred and twenty-eight members, who shall be annually elected.

Assembly, number of.

§ 3. The state shall be divided into thirty-two districts, to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to thirty-two inclusive.

Senatorial districts.

District number one (1) shall consist of the counties of Suffolk, Richmond, and Queens.

No. 1.

District number two (2) shall consist of the county of Kings.

No. 2.

District number three (3), number four (4), number five (5), and number six (6), shall consist of the city and county of New York; and the board of supervisors of said city and county shall, on or before the first day of May, one thousand eight hundred and forty-seven, divide the said city and county into the number of senate districts to which it is entitled, as near as may be of an equal number of inhabitants, excluding aliens and persons of color not taxed, and consisting of convenient and contiguous territory; and no assembly district shall be divided in the formation of a senate district. The board of supervisors, when they shall have completed such division, shall cause certificates thereof, stating the number and boundaries of each district and the population thereof, to be filed in the office of the secretary of state, and of the clerk of the said city and county.

Nos. 3, 4, 5, 6.

District number seven (7) shall consist of the counties of Westchester, Putnam and Rockland.

No. 7.

District number eight (8) shall consist of the counties of Dutchess and Columbia.

No. 8.

District number nine (9) shall consist of the counties of Orange and Sullivan.

No. 9.

District number ten (10) shall consist of the counties of Ulster and Greene.

No. 10.

District number eleven (11) shall consist of the counties of Albany and Schenectady.

No. 11.

District number twelve (12) shall consist of the county of Rensselaer.

No. 12.

the army or navy thereof, shall be deprived of his vote by reason of his absence from the state; and the legislature shall have power to provide the manner in which and the time and place at which such electors may vote, and for the canvass and returns of their votes in the election districts in which they respectively reside, or otherwise.

- No. 13. District number thirteen (13) shall consist of the counties of Washington and Saratoga.
- No. 14. District number fourteen (14) shall consist of the counties of Warren, Essex and Clinton.
- No. 15. District number fifteen (15) shall consist of the counties of St. Lawrence and Franklin.
- No. 16. District number sixteen (16) shall consist of the counties of Herkimer, Hamilton, Fulton and Montgomery.
- No. 17. District number seventeen (17) shall consist of the counties of Schoharie and Delaware.
- No. 18. District number eighteen (18) shall consist of the counties of Otsego and Chenango.
- No. 19. District number nineteen (19) shall consist of the county of Oneida.
- No. 20. District number twenty (20) shall consist of the counties of Madison and Oswego.
- No. 21. District number twenty-one (21) shall consist of the counties of Jefferson and Lewis.
- No. 22. District number twenty-two (22) shall consist of the county of Onondaga.
- No. 23. District number twenty-three (23) shall consist of the counties of Cortland, Broome and Tioga.
- No. 24. District number twenty-four (24) shall consist of the counties of Cayuga and Wayne.
- No. 25. District number twenty-five (25) shall consist of the counties of Tompkins, Seneca and Yates.
- No. 26. District number twenty-six (26) shall consist of the counties of Steuben and Chemung.
- No. 27. District number twenty-seven (27) shall consist of the county of Monroe.
- No. 28. District number twenty-eight (28) shall consist of the counties of Orleans, Genesee and Niagara.
- No. 29. District number twenty-nine (29) shall consist of the counties of Ontario and Livingston.
- No. 30. District number thirty (30) shall consist of the counties of Allegany and Wyoming.
- No. 31. District number thirty-one (31) shall consist of the county of Erie.
- No. 32. District number thirty-two (32) shall consist of the counties of Chautauqua and Cattaraugus.

Census, when to be taken.

Senate districts altered.

To remain unaltered.

§ 4. An enumeration of the inhabitants of the state shall be taken, under the direction of the legislature, in the year one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and the said districts shall be so altered by the legislature, at the first session after the return of every enumeration, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, and persons of color not taxed; and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district, except such county shall be equitably entitled to two or more senators.

Members of assembly to be apportioned.

Supervisors to divide county into assembly districts.

§ 5. The members of assembly shall be apportioned among the several counties of this state, by the legislature, as nearly as may be, according to the number of their respective inhabitants, excluding aliens, and persons of color not taxed, and shall be chosen by single districts. The several boards of supervisors in such counties of this state, as are now entitled to more than one member of assembly, shall assemble on the first Tuesday of January next, and divide their respective counties into assembly districts, equal to the number of members of assembly to which such counties are now severally entitled by law, and shall cause to be filed

in the offices of the secretary of state and the clerks of their respective counties, a description of such assembly districts, specifying the number of each district and the population thereof, according to the last preceding state enumeration, as near as can be ascertained. Each assembly district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, and persons of color not taxed, and shall consist of convenient and contiguous territory; but no town shall be divided in the formation of assembly districts.

The legislature, at its first session after the return of every enumeration, shall re-apportion the members of assembly among the several counties of this state, in manner aforesaid: and the boards of supervisors in such counties as may be entitled, under such re-apportionment, to more than one member, shall assemble at such time as the legislature making such re-apportionment shall prescribe, and divide such counties into assembly districts, in the manner herein directed; and the apportionment and districts so to be made shall remain unaltered until another enumeration shall be taken, under the provisions of the preceding section.

Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of the assembly, and no new county shall hereafter be erected, unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, be entitled to a member.

§ 6. The members of the legislature shall receive for their services a sum not exceeding three dollars per day, from the commencement of the session, but such pay shall not exceed in the aggregate three hundred dollars per diem allowance, except in proceedings for impeachment. The limitation as to the aggregate compensation shall not take effect until the year one thousand eight hundred and forty-eight. When convened in extra session by the governor, they shall receive three dollars per day. They shall also receive the sum of one dollar for every ten miles they shall travel, in going to and returning from their place of meeting on the most usual route.

The speaker of the assembly shall, in virtue of his office, receive an additional compensation equal to one-third of his per diem allowance as a member.

§ 7. No member of the legislature shall receive any civil appointment within this state, or to the senate of the United States, from the governor, the governor and senate, or from the legislature, during the term for which he shall have been elected; and all such appointments, and all votes given for any such member, for any such office or appointment, shall be void.

§ 8. No person being a member of congress, or holding any judicial or military office under the United States, shall hold a seat in the legislature; and if any person shall, after his election as a member of the legislature, be elected to congress, or appointed to any office, civil or military, under the government of the United States, his acceptance thereof shall vacate his seat.

§ 9. The elections of senators and members of assembly, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the legislature.

§ 10. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns, and qualifications of its own members; shall choose its own officers; and the senate shall choose a tempo-

Members to be re-apportioned.

Districts to be altered.

To remain unaltered.

Each county entitled to one member except Hamilton. Hamilton elect with Fulton.

Pay of members.

Mileage.

Speaker's compensation.

No member to receive appointment.

Who cannot be a member.

Time of annual election.

Powers of each house. Contested seats.

rary president, when the lieutenant-governor shall not attend as president, or shall act as governor.

Journals to be kept.

§ 11. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

Freedom in debate.

§ 12. For any speech or debate in either house of the legislature, the members shall not be questioned in any other place.

Bills may originate in either house.

§ 13. Any bill may originate in either house of the legislature, and all bills passed by one house may be amended by the other.

Enacting clause of bills.

§ 14. The enacting clause of all bills shall be "The People of the State of New York, represented in senate and assembly, do enact as follows," and no law shall be enacted except by bill.

Majority of members elected required to pass bills.

§ 15. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the legislature, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

Private or local bills.

§ 16. No private or local bill, which may be passed by the legislature, shall embrace more than one subject, and that shall be expressed in the title.

Local legislation.

§ 17. The legislature may confer upon the boards of supervisors of the several counties of the state, such further powers of local legislation and administration, as they shall from time to time prescribe.

ARTICLE IV.

Executive power.

SECTION 1. The executive power shall be vested in a governor, who shall hold his office for two years; a lieutenant-governor shall be chosen at the same time and for the same term.

Qualifications of governor.

§ 2. No person, except a citizen of the United States, shall be eligible to the office of governor, nor shall any person be eligible to that office who shall not have attained the age of thirty years, and who shall not have been, five years next preceding his election, a resident within this state.

Election of governor and lieutenant-governor.

§ 3. The governor and lieutenant-governor shall be elected at the times and places of choosing members of the assembly. The persons respectively having the highest number of votes for governor and lieutenant-governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for governor, or for lieutenant-governor, the two houses of the legislature, at its next annual session, shall, forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for governor, or lieutenant-governor.

Powers and duties of governor.

§ 4. The governor shall be commander-in-chief of the military and naval forces of the state. He shall have power to convene the legislature (or the senate only) on extraordinary occasions. He shall communicate by message to the legislature, at every session, the condition of the state, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed. He shall, at stated times, receive for his services a compensation to be established by law, which shall neither be increased nor diminished after his election, or during his continuance in office.

Compensation.

Pardoning power.

§ 5. The governor shall have the power to grant reprieves, commutations, and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations as he may think proper, subject to such regulation as may be provided by law relative to the manner of applying for pardons.

Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the legislature at its next meeting, when the legislature shall either pardon or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

§ 6. In case of the impeachment of the governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the state, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease. But when the governor shall, with the consent of the legislature, be out of the state in time of war, at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the state.

When powers of governor devolve on lieutenant-governor.

§ 7. The lieutenant-governor shall possess the same qualifications of eligibility for office as the governor. He shall be president of the senate, but shall have only a casting vote therein. If during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or he be absent from the state, the president of the senate shall act as governor, until the vacancy be filled, or the disability shall cease.

Qualifications, powers and duties of lieutenant-governor.

§ 8. The lieutenant-governor shall, while acting as such, receive a compensation which shall be fixed by law, and which shall not be increased or diminished during his continuance in office.

Compensation of lieutenant-governor.

§ 9. Every bill which shall have passed the senate and assembly shall, before it becomes a law, be presented to the governor; if he approve he shall sign it; but if not, he shall return it with his objections to that house, in which it shall have originated; who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of all the members present, it shall become a law, notwithstanding the objections of the governor. But in all such cases, the votes of both houses shall be determined by ayes and nays, and the names of the members voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

Bills to be presented to governor. If returned with objections, how disposed of.

Effect if not returned within ten days.

ARTICLE V.

SECTION 1. The secretary of state, comptroller, treasurer, and attorney-general, shall be chosen at a general election, and shall hold their offices for two years. Each of the officers in this article named (except the speaker of the assembly) shall, at stated times, during his continuance in office, receive for his services a compensation, which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive, to his use, any fees or perquisites of office, or other compensation.

State officers, when chosen, tenure of office and compensation.

§ 2. A state engineer and surveyor shall be chosen at a general election, and shall hold his office two years, but no person shall be elected to said office who is not a practical engineer.

State engineer

§ 3. Three canal commissioners shall be chosen at the general election which shall be held next after the adoption of this constitution, one of

Canal commissioners.

whom shall hold his office for one year, one for two years, and one for three years. The commissioners of the canal fund shall meet at the capitol on the first Monday of January next after such election, and determine by lot which of said commissioners shall hold his office for one year, which for two, and which for three years; and there shall be elected annually thereafter, one canal commissioner, who shall hold his office for three years.

Inspectors
of state
prisons.

§ 4. Three inspectors of state prisons shall be elected at the general election, which shall be held next after the adoption of this constitution, one of whom shall hold his office for one year, one for two years, and one for three years. The governor, secretary of state and comptroller, shall meet at the capitol on the first Monday of January next succeeding such election, and determine by lot which of said inspectors shall hold his office for one year, which for two, and which for three years; and there shall be elected annually thereafter, one inspector of state prisons, who shall hold his office for three years; said inspectors shall have the charge and superintendence of the state prisons, and shall appoint all the officers therein. All vacancies in the office of such inspector shall be filled by the governor, till the next election.

Commis-
sioners of
the land
office.

§ 5. The lieutenant-governor, speaker of the assembly, secretary of state, comptroller, treasurer, attorney-general and state engineer and surveyor, shall be the commissioners of the land office.

Commis-
sioners of
the canal
fund.
Canal
board.

The lieutenant-governor, secretary of state, comptroller, treasurer and attorney-general, shall be the commissioners of the canal fund.

The canal board shall consist of the commissioners of the canal fund, the state engineer and surveyor, and the canal commissioners.

Powers
and duties
of boards
and offi-
cers.
Treasurer
may be
suspended
by the gov-
ernor.

§ 6. The powers and duties of the respective boards, and of the several officers in this article mentioned, shall be such as now are or hereafter may be prescribed by law.

§ 7. The treasurer may be suspended from office by the governor, during the recess of the legislature, and until thirty days after the commencement of the next session of the legislature, whenever it shall appear to him that such treasurer has, in any particular, violated his duty. The governor shall appoint a competent person to discharge the duties of the office, during such suspension of the treasurer.

Certain
offices
abolished.

§ 8. All offices for the weighing, gauging, measuring, culling or inspecting any merchandise, produce, manufacture or commodity, whatever, are hereby abolished, and no such office shall hereafter be created by law; but nothing in this section contained, shall abrogate any office created for the purpose of protecting the public health or the interests of the state in its property, revenue, tolls or purchases, or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.

ARTICLE VI.

Impeach-
ment.

SECTION 1. The assembly shall have the power of impeachment, by the vote of the majority of all the members elected. The court for the trial of impeachments shall be composed of the president of the senate, the senators, or a major part of them, and the judges of the court of appeals, or the major part of them. On the trial of an impeachment against the governor, the lieutenant-governor shall not act as a member of the court. No judicial officer shall exercise his office after he shall have been impeached, until he shall have been acquitted. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try the impeachment, according to evidence; and no person shall be convicted, without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from

office and disqualification to hold and enjoy any office of honor, trust, or profit, under this state ; but the party impeached shall be liable to indictment and punishment according to law.

§ 2. There shall be a court of appeals, composed of eight judges, of whom four shall be elected by the electors of the state for eight years, and four selected from the class of justices of the supreme court having the shortest time to serve. Provision shall be made by law, for designating one of the number elected, as chief judge, and for selecting such justices of the supreme court, from time to time, and for so classifying those elected, that one shall be elected every second year. Court of appeals.

§ 3. There shall be a supreme court having general jurisdiction in law and equity. Supreme court.

§ 4. The state shall be divided into eight judicial districts, of which the city of New York shall be one ; the others to be bounded by county lines, and to be compact and equal in population as nearly as may be. There shall be four justices of the supreme court in each district, and as many more in the district composed of the city of New York, as may from time to time be authorized by law, but not to exceed in the whole such number in proportion to its population, as shall be in conformity with the number of such judges in the residue of the state, in proportion to its population. They shall be classified so that one of the justices of each district shall go out of office at the end of every two years. After the expiration of their terms under such classification, the term of their office shall be eight years. Judicial districts.

§ 5. The legislature shall have the same powers to alter and regulate the jurisdiction and proceedings in law and equity as they have heretofore possessed. Jurisdiction, &c., may be altered.

§ 6. Provision may be made, by law, for designating, from time to time, one or more of the said justices, who is not a judge of the court of appeals, to preside at the general terms of the said court to be held in the several districts. Any three or more of the said justices, of whom one Presiding justice.

of the said justices so designated shall always be one, may hold such general terms. Any one or more of the justices may hold special terms, and circuit courts, and any one of them may preside in courts of oyer and terminer in any county. Who may hold courts.

§ 7. The judges of the court of appeals and justices of the supreme court shall severally receive, at stated times, for their services, a compensation, to be established by law, which shall not be increased or diminished during their continuance in office. Compensation to judges.

§ 8. They shall not hold any other office or public trust. All votes for either of them for any elective office (except that of justice of the supreme court or judge of the court of appeals) given by the legislature or the people shall be void. They shall not exercise any power of appointment to public office. Any male citizen, of the age of twenty-one years, of good moral character, and who possesses the requisite qualifications of learning and ability, shall be entitled to admission to practice in all the courts of this state. Judges to hold no other office.
Attorneys, who may be.

§ 9. The classification of the justices of the supreme court ; the times and place of holding the terms of the court of appeals, and of the general and special terms of the supreme court, within the several districts, and the circuit courts and courts of oyer and terminer, within the several counties shall be provided for by law. Classification of judges and terms of court.

§ 10. The testimony in equity cases shall be taken in like manner as in cases at law. Equity cases.

§ 11. Justices of the supreme court and judges of the court of appeals may be removed by concurrent resolution of both houses of the legislature, if two-thirds of all the members elected to the assembly and a majority of all the members elected to the senate concur therein. All Removal of judges.

judicial officers, except those mentioned in this section, and except justices of the peace and judges and justices of inferior courts, not of record, may be removed by the senate on the recommendation of the governor; but no removal shall be made by virtue of this section, unless the cause thereof be entered on the journals, nor unless the party complained of shall have been served with a copy of the complaint against him, and shall have had an opportunity of being heard in his defence. On the question of removal the ayes and noes shall be entered on the journals.

Judges,
how elect-
ed.

§ 12. The judges of the court of appeals shall be elected by the electors of the state, and the justices of the supreme court by the electors of the several judicial districts, at such times as may be prescribed by law.

Vacancies,
how sup-
plied.

§ 13. In case the office of any judge of the court of appeals or justice of the supreme court shall become vacant before the expiration of the regular term for which he was elected, the vacancy may be filled by appointment by the governor until it shall be supplied at the next general election of judges, when it shall be filled by election for the residue of the unexpired term.

County
judges.

§ 14. There shall be elected in each of the counties of this state, except the city and county of New York, one county judge, who shall hold his office for four years. He shall hold the county court and perform the duties of the office of surrogate. The county court shall have such jurisdiction, in cases arising in justices' courts, and in special cases, as the legislature may prescribe, but shall have no original civil jurisdiction except in such special cases.

Courts of
sessions.

The county judge, with two justices of the peace, to be designated according to law, may hold courts of sessions, with such criminal jurisdiction as the legislature shall prescribe, and perform such other duties as may be required by law.

Compensation.

The county judge shall receive an annual salary, to be fixed by the board of supervisors, which shall be neither increased nor diminished during his continuance in office. The justices of the peace, for services in courts of sessions, shall be paid a per diem allowance out of the county treasury.

Surrogates.

In counties having a population exceeding forty thousand, the legislature may provide for the election of a separate officer to perform the duties of the office of surrogate.

Equity
powers.

The legislature may confer equity jurisdiction in special cases upon the county judge.

Local
courts

Inferior local courts of civil and criminal jurisdiction may be established by the legislature in cities; and such courts, except for the cities of New York and Buffalo, shall have an uniform organization and jurisdiction in such cities.

Local judi-
cial offi-
cers.

§ 15. The legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county to discharge the duties of county judge and of surrogate, in cases of their inability, or of a vacancy, and to exercise such other powers in special cases as may be provided by law.

Alteration
of judicial
districts.

§ 16. The legislature may re-organize the judicial districts at the first session after the return of every enumeration under this constitution, in the manner provided for in the fourth section of this article, and at no other time; and they may at such session increase or diminish the number of districts; but such increase or diminution shall not be more than one district at any one time. Each district shall have four justices of the supreme court; but no diminution of the districts shall have the effect to remove a judge from office.

Justices of
the peace,
how
elected.

§ 17. The electors of the several towns shall at their annual town meeting, and in such manner as the legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an elec-

tion to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the peace and judges or justices of inferior courts, not of record, and their clerks, may be removed after due notice, and an opportunity of being heard in their defence by such county, city, or state courts as may be prescribed by law, for causes to be assigned in the order of removal.

Their removal.

§ 18. All judicial officers of cities and villages, and all such judicial officers as may be created therein by law, shall be elected at such times and in such manner as the legislature may direct.

Judicial officers of cities, &c.

§ 19. Clerks of the several counties of this state shall be clerks of the supreme court, with such powers and duties as shall be prescribed by law. A clerk of the court of appeals, to be *ex-officio* clerk of the supreme court, and to keep his office at the seat of government, shall be chosen by the electors of the state; he shall hold his office for three years, and his compensation shall be fixed by law and paid out of the public treasury.

Clerks of supreme court and of appeals.

§ 20. No judicial officer, except justices of the peace shall receive, to his own use, any fees or perquisites of office.

No fees to judicial officers.

§ 21. The legislature may authorize the judgments, decrees, and decisions of any local inferior court of record, of original civil jurisdiction, established in a city, to be removed, for review, directly into the court of appeals.

Appeals from local courts.

§ 22. The legislature shall provide for the speedy publication of all statute laws, and of such judicial decisions as it may deem expedient. And all laws and judicial decisions shall be free for publication by any person.

Publication of laws.

§ 23. Tribunals of conciliation may be established, with such powers and duties as may be prescribed by law; but such tribunals shall have no power to render judgment to be obligatory on the parties, except they voluntarily submit their matters in difference and agree to abide the judgment, or assent thereto, in the presence of such tribunal, in such cases as shall be prescribed by law.

Tribunals of conciliation.

§ 24. The legislature, at its first session after the adoption of this constitution, shall provide for the appointment of three commissioners, whose duty it shall be to revise, reform, simplify and abridge the rules of practice, pleadings, forms, and proceedings of the courts of record of this state, and to report thereon to the legislature, subject to their adoption and modification from time to time.

Revision of practice.

§ 25. The legislature, at its first session after the adoption of this constitution shall provide for the organization of the court of appeals, and for transferring to it the business pending in the court for the correction of errors, and for the allowance of writs of error and appeals to the court of appeals, from the judgments and decrees of the present court of chancery and supreme court, and of the courts that may be organized under this constitution.

Organization of court of appeals.

ARTICLE VII.

SECTION 1. After paying the expenses of collection, superintendence and ordinary repairs, there shall be appropriated and set apart, in each fiscal year, out of the revenues of the state canals, in each year, commencing on the first day of June, one thousand eight hundred and forty six, the sum of one million and three hundred thousand dollars, until the first day of June, one thousand eight hundred and fifty-five, and from that time, the sum of one million and seven hundred thousand dollars, in each fiscal year, as a sinking fund, to pay the interest and redeem the principal of that part of the state debt called the canal debt, as it existed at the time first aforesaid, and including three hundred thou-

Canal debt sinking fund.

sand dollars, then to be borrowed, until the same shall be wholly paid; and the principal and income of the said sinking fund shall be sacredly applied to that purpose.

General
fund debt
sinking
fund.

§ 2. After complying with the provisions of the first section of this article there shall be appropriated and set apart out of the surplus revenues of the state canals in each fiscal year, commencing on the first day of June, one thousand eight hundred and forty-six, the sum of three hundred and fifty thousand dollars, until the time when a sufficient sum shall have been appropriated and set apart, under the said first section, to pay the interest and extinguish the entire principal of the canal debt; and after that period, then the sum of one million and five hundred thousand dollars in each fiscal year, as a sinking fund, to pay the interest and redeem the principal of that part of the state debt called the general fund debt, including the debt for loans of the state credit to railroad companies, which have failed to pay the interest thereon, and also the contingent debt on state stocks loaned to incorporated companies which have hitherto paid the interest thereon, whenever, and as far as any part thereof may become a charge on the treasury or general fund until the same shall be wholly paid; and the principal and income of the said last mentioned sinking fund shall be sacredly applied to the purpose aforesaid; and if the payment of any part of the moneys to the said sinking fund shall at any time be deferred, by reason of the priority recognized in the first section of this article, the sum so deferred, with quarterly interest thereon at the then current rate, shall be paid to the last mentioned sinking fund, as soon as it can be done consistently, with the just rights of the creditors holding said canal debt.

Surplus
revenues
of canals.

§ 3. After paying the said expenses of superintendence and repairs of the canals, and the sums appropriated by the first and second sections of this article, there shall be paid out of the surplus revenues of the canals to the treasury of the state, on or before the thirtieth day of September in each year, for the use and benefit of the general fund, such sum, not exceeding two hundred thousand dollars, as may be required to defray the necessary expenses of the state; and the remainder of the revenues of the said canals shall in each fiscal year be applied in such manner as the legislature shall direct to the completion of the Erie canal enlargement and the Genesee Valley and Black River canals, until the said canals shall be completed.

If at any time after the period of eight years from the adoption of this constitution, the revenues of the state, unappropriated by this article, shall not be sufficient to defray the necessary expenses of the government, without continuing or laying a direct tax, the legislature may, at its discretion, supply the deficiency in whole or in part from the surplus revenues of the canals, after complying with the provisions of the first two sections of this article for paying the interest and extinguishing the principal of the canal and general fund debt; but the sum thus appropriated from the surplus revenues of the canals shall not exceed annually three hundred and fifty thousand dollars, including the sum of two hundred thousand dollars provided for by this section for the expenses of the government, until the general fund debt shall be extinguished, or until the Erie canal enlargement and Genesee Valley and Black River canals shall be completed, and after that debt shall be paid, or the said canals shall be completed, then the sum of six hundred and seventy-two thousand five hundred dollars, or so much thereof as shall be necessary, may be annually appropriated to defray the expenses of the government.

Loans to
companies.

§ 4. The claims of the state against any incorporated company to pay the interest and redeem the principal of the stock of the state, loaned or advanced to such company, shall be fairly enforced, and not released or

compromised; and the moneys arising from such claims shall be set apart and applied as part of the sinking fund provided in the second section of this article. But the time limited for the fulfillment of any condition of any release or compromise heretofore made or provided for, may be extended by law.

§ 5. If the sinking funds, or either of them, provided in this article, shall prove insufficient to enable the state, on the credit of such fund to procure the means to satisfy the claims of the creditors of the state, as they become payable, the legislature shall, by equitable taxes, so increase the revenues of the said funds as to make them, respectively, sufficient perfectly to preserve the public faith. Every contribution or advance to the canals or their debt from any source other than their direct revenues, shall, with quarterly interest, at the rates then current, be repaid into the treasury, for the use of the state, out of the canal revenues, as soon as it can be done consistently with the just rights of the creditors holding the said canal debt.

Deficiency
in sinking
funds.

§ 6. The legislature shall not sell, lease, or otherwise dispose of any of the canals of the state, but they shall remain the property of the state, and under its management forever.

Canals not
to be sold.

§ 7. The legislature shall never sell or dispose of the salt springs belonging to this state. The lands contiguous thereto, and which may be necessary and convenient for the use of the salt springs, may be sold by authority of law, and under the direction of the commissioners of the land office, for the purpose of investing the moneys arising therefrom in other lands alike convenient; but by such sale and purchase the aggregate quantity of these lands shall not be diminished.

Salt
springs not
to be sold.

§ 8. No moneys shall ever be paid out of the treasury of this state or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law, making a new appropriation or continuing or reviving an appropriation, shall distinctly specify the sum appropriated and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

Appropriation
bills.

§ 9. The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual, association or corporation.

State credit
not to be
loaned.

§ 10. The state may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts, but such debts direct and contingent, singly or in the aggregate, shall not at any time exceed one million of dollars; and the moneys arising from the loans creating such debts, shall be applied to the purpose for which they were obtained, or to repay the debt so contracted, and to no other purpose whatever.

Power to
incur debt.

§ 11. In addition to the above limited power to contract debts, the state may contract debts to repel invasion, suppress insurrection, or defend the state in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

Debts to
repel invasion,
&c.

§ 12. Except the debts specified in the tenth and eleventh sections of this article, no debt shall be hereafter contracted by or on behalf of this state, unless such debt shall be authorized by a law for some single work or object to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, to pay and sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within eighteen years from the time of the contracting thereof.

Limitation
of power to
incur debt.

No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it at such election.

On the final passage of such bill in either house of the legislature, the question shall be taken by ayes and noes to be duly entered on the journal thereof, and shall be: "Shall this bill pass and ought the same to receive the sanction of the people?"

The legislature may, at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability, which may have been contracted in pursuance of such law, shall remain in force and be irrevocable, and be annually collected, until the proceeds thereof shall have made the provision herein before specified to pay and discharge the interest and principal of such debt and liability.

The money arising from any loan or stock creating such debt or liability, shall be applied to the work or object specified in the act authorizing such debt or liability, or for the repayment of such debt or liability, and for no other purpose whatever.

No such law shall be submitted to be voted on within three months after its passage, or at any general election when any other law, or any bill, or any amendment to the constitution, shall be submitted to be voted for or against.

Acts imposing tax.

§ 13. Every law which imposes, continues or revives a tax, shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

Ibid.

§ 14. On the final passage in either house of the legislature of every act, which imposes, continues or revives a tax, or creates a debt or charge or makes, continues or revives any appropriation of public or trust money, or property, or releases, discharges or commutes any claim or demand of the state, the question shall be taken by ayes and noes, which shall be duly entered on the journals, and three-fifths of all the members elected to either house, shall, in all such cases, be necessary to constitute a quorum therein.

ARTICLE VIII.

Corporations, how created.

SECTION 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time, or repealed.

Debts of corporations.

§ 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

"Corporations" defined.

§ 3. The term corporation, as used in this article, shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued in all courts, in like cases as natural persons.

Bank charters.

§ 4. The legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

Specie payments.

§ 5. The legislature shall have no power to pass any law sanctioning, in any manner, directly or indirectly, the suspension of specie payments by any person, association, or corporation issuing bank notes of any description.

Bank notes.

§ 6. The legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.

§ 7. The stockholders in every corporation and joint-stock association for banking purposes, issuing bank notes or any kind of paper credits, to circulate as money, after the first day of January, one thousand eight hundred and fifty, shall be individually responsible, to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind contracted after said first day of January, one thousand eight hundred and fifty.

Individual liability of stockholders.

§ 8. In case of the insolvency of any bank or banking association, the bill-holders thereof shall be entitled to preference in payment, over all other creditors of such bank or association.

Bill holders.

§ 9. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments, and in contracting debt by such municipal corporations.

Cities and villages.

ARTICLE IX.

SECTION 1. The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund shall be respectively preserved inviolate. The revenues of the said common school fund shall be applied to the support of common schools; the revenues of the said literature fund shall be applied to the support of academies; and the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made a part of the capital of the said common school fund.

Funds for education.

ARTICLE X.

SECTION 1. Sheriffs, clerks of counties, including the register, and clerk of the city and county of New York, coroners, and district attorneys shall be chosen by the electors of the respective counties once in every three years, and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of their offices. They may be required by law to renew their security from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff.

County officers.

The governor may remove any officer in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defence.

§ 2. All county officers whose election or appointment is not provided for by this constitution, shall be elected by the electors of the respective counties, or appointed by the boards of supervisors or other county authorities, as the legislature shall direct. All city, town and village officers whose election or appointment is not provided for by this constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof as the legislature shall designate for that purpose. All other officers whose election or appointment is not provided for by this constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the legislature may direct.

County officers.

City and town officers.

Other officers.

§ 3. When the duration of any office is not provided by this constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

Duration of office.

§ 4. The time of electing all officers named in this article shall be prescribed by law.

Time of election.

§ 5. The legislature shall provide for filling vacancies in office, and in

Vacancies.

case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.

Political year.

§ 6. The political year and legislative term shall begin on the first day of January, and the legislature shall, every year, assemble on the first Tuesday in January, unless a different day shall be appointed by law.

Removals from office.

§ 7. Provision shall be made by law for the removal for misconduct or malversation in office, of all officers (except judicial) whose powers and duties are not local or legislative, and who shall be elected at general elections, and also for supplying vacancies created by such removal.

When office vacant.

§ 8. The legislature may declare the cases in which any office shall be deemed vacant, when no provision is made for that purpose in this constitution.

ARTICLE XI.

Militia.

SECTION 1. The militia of this state shall, at all times hereafter, be armed and disciplined and in readiness for service; but all such inhabitants of this state of any religious denomination whatever, as from scruples of conscience may be averse to bearing arms, shall be excused therefrom upon such conditions as shall be prescribed by law.

Militia officers, how appointed.

§ 2. Militia officers shall be chosen or appointed as follows: Captains, subalterns and non-commissioned officers shall be chosen by the written votes of the members of their respective companies. Field officers of regiments and separate battalions by the written votes of the commissioned officers of the respective regiments and separate battalions; brigadier-generals and brigade inspectors by the field officers of their respective brigades; major-generals, brigadier-generals and commanding officers of regiments or separate battalions, shall appoint the staff officers to their respective divisions, brigades, regiments or separate battalions.

Ibid.

§ 3. The governor shall nominate, and with the consent of the senate, appoint all major-generals and the commissary-general. The adjutant-general and other chiefs of staff departments, and the aids-de-camp of the commander-in-chief shall be appointed by the governor, and their commissions shall expire with the time for which the governor shall have been elected. The commissary-general shall hold his office for two years. He shall give security for the faithful execution of the duties of his office, in such manner and amount as shall be prescribed by law.

Tenure of office.

Time and manner of election.

§ 4. The legislature shall, by law, direct the time and manner of electing militia officers, and of certifying their elections to the governor.

Officers, how commissioned. And removed.

§ 5. The commissioned officers of the militia shall be commissioned by the governor; and no commissioned officer shall be removed from office unless by the senate, on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, pursuant to law. The present officers of the militia shall hold their commissions, subject to removal, as before provided.

Election may be abolished.

§ 6. In case the mode of election and appointment of militia officers hereby directed, shall not be found conducive to the improvement of the militia, the legislature may abolish the same, and provide by law for their appointment and removal, if two-thirds of the members present in each house shall concur therein.

ARTICLE XII.

Oath of office.

SECTION 1. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the

state of New York; and that I will faithfully discharge the duties of the office of....., according to the best of my ability."

And no other oath, declaration, or test, shall be required as a qualification for any office or public trust.

ARTICLE XIII.

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate and assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and referred to the legislature, to be chosen at the next general election of senators, and shall be published for three months previous to the time of making such choice; and if in the legislature so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such times as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the legislature, voting thereon, such amendment or amendments shall become part of the constitution.

Amendments.

§ 2. At the general election, to be held in the year eighteen hundred and sixty-six, and in each twentieth year thereafter, and also at such time as the legislature may by law provide, the question "shall there be a convention to revise the constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the legislature at its next session shall provide by law for the election of delegates to such convention.

Future conventions.

ARTICLE XIV.

SECTION 1. The first election of senators and members of assembly, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and forty-seven.

First election of legislature.

The senators and members of assembly who may be in office on the first day of January, one thousand eight hundred and forty-seven, shall hold their offices until and including the thirty-first day of December following, and no longer.

§ 2. The first election of governor and lieutenant-governor, under this constitution, shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and forty-eight; and the governor and lieutenant-governor in office when this constitution shall take effect, shall hold their respective offices until and including the thirty-first day of December of that year.

First election of governor and lieutenant-governor.

§ 3. The secretary of state, comptroller, treasurer, attorney-general, district attorneys, surveyor-general, canal commissioners, and inspectors of state prisons, in office when this constitution shall take effect, shall hold their respective offices until and including the thirty-first day of December, one thousand eight hundred and forty-seven, and no longer.

State officers to remain in office.

§ 4. The first election of judges and clerk of the court of appeals, justices of the supreme court, and county judges, shall take place at such time, between the first Tuesday of April and the second Tuesday of June, one thousand eight hundred and forty-seven, as may be prescribed by law. The said courts shall, respectively, enter upon their duties on the first Monday of July, next thereafter; but the term of office of said judges, clerk and justices, as declared by this constitution, shall be deemed to

First election of judges.

commence on the first day of January, one thousand eight hundred and forty-eight.

Transfer of
jurisdiction.

§ 5. On the first Monday of July, one thousand eight hundred and forty-seven, jurisdiction of all suits and proceedings then pending in the present supreme court and court of chancery, and all suits and proceedings originally commenced and then pending in any court of common pleas (except in the city and county of New York), shall become vested in the supreme court hereby established. Proceedings pending in courts of common pleas, and in suits originally commenced in justices' courts, shall be transferred to the county courts provided for in this constitution, in such manner and form and under such regulations as shall be provided by law. The courts of oyer and terminer hereby established shall, in their respective counties, have jurisdiction on and after the day last mentioned of all indictments and proceedings then pending in the present courts of oyer and terminer, and also of all indictments and proceedings then pending in the present courts of general sessions of the peace, except in the city of New York, and except in cases of which the courts of sessions, hereby established may lawfully take cognizance; and of such indictments and proceedings the courts of sessions, hereby established, shall have jurisdiction on and after the day last mentioned.

Present
courts con-
tinued.

§ 6. The chancellor and the present supreme court shall, respectively, have power to hear and determine any of such suits and proceedings ready, on the first Monday of July, one thousand eight hundred and forty-seven, for hearing or decision, and shall, for their services therein, be entitled to their present rates of compensation until the first day of July, one thousand eight hundred and forty-eight, or until all such suits and proceedings shall be sooner heard and determined. Masters in chancery may continue to exercise the functions of their offices in the court of chancery, so long as the chancellor shall continue to exercise the functions of his office, under the provisions of this constitution.

And the supreme court hereby established shall also have power to hear and determine such of said suits and proceedings, as may be prescribed by law.

Vacancies
in the ex-
isting
courts.

§ 7. In case any vacancy shall occur in the office of chancellor or justice of the present supreme court previously to the first day of July, one thousand eight hundred and forty-eight, the governor may nominate, and by and with the advice and consent of the senate appoint, a proper person to fill such vacancy. Any judge of the court of appeals or justice of the supreme court, elected under this constitution, may receive and hold such appointment.

Offices
abolished.

§ 8. The offices of chancellor, justice of the existing supreme court, circuit judge, vice-chancellor, assistant vice-chancellor, judge of the existing county courts of each county, supreme court commissioner, master in chancery, examiner in chancery, and surrogate (except as herein otherwise provided), are abolished from and after the first Monday of July, one thousand eight hundred and forty-seven (1847).

Judges
eligible to
office.

§ 9. The chancellor, the justices of the present supreme court, and the circuit judges, are hereby declared to be severally eligible to any office at the first election under this constitution.

Sheriffs,
&c., to hold
office.

§ 10. Sheriffs, clerks of counties (including the register and clerk of the city and county of New York), and justices of the peace, and coroners, in office when this constitution shall take effect, shall hold their respective offices until the expiration of the term for which they were respectively elected.

Officers
may re-
ceive fees.

§ 11. Judicial officers in office when this constitution shall take effect, may continue to receive such fees and perquisites of office as are now authorized by law, until the first day of July, one thousand eight hundred

and forty-seven, notwithstanding the provisions of the twentieth section of the sixth article of this constitution.

§ 12. All local courts established in any city or village, including the superior court, common pleas, sessions and surrogate's courts of the city and county of New York, shall remain until otherwise directed by the legislature with their present powers and jurisdictions; and the judges of such courts and any clerks thereof, in office on the first day of January, one thousand eight hundred and forty-seven, shall continue in office until the expiration of their terms of office, or until the legislature shall otherwise direct. Local courts to continue.

§ 13. This constitution shall be in force from and including the first day of January, one thousand eight hundred and forty-seven, except as herein otherwise provided. Constitution goes into effect.

Done in convention, at the capitol in the city of Albany, the ninth day of October, in the year one thousand eight hundred and forty-six, and of the independence of the United States of America the seventy-first.

In witness whereof, we have hereunto subscribed our names.

JOHN TRACEY,

President and delegate from the county of Chenango.

JAMES F. STARBUCK,
H. W. STRONG,
FR. SEGER, } *Secretaries.*

THE CONSTITUTION

OF THE

STATE OF NEW YORK,

NOW IN FORCE; BEING THE CONSTITUTION OF 1846, WITH THE AMENDMENTS
TO JANUARY 1, 1889.

WE, THE PEOPLE of the State of New York, grateful to Almighty God
for our Freedom, in order to secure its blessings, DO ESTABLISH THIS
CONSTITUTION.

ARTICLE I.

No person to be disfranchised. SECTION 1. No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.¹

Trial by jury. § 2. The trial by jury in all cases in which it has been heretofore used, shall remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law.²

Religious liberty. § 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices, inconsistent with the peace or safety of this state.³

Writ of habeas corpus. § 4. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.⁴

Bail, fines. § 5. Excessive bail shall not be required nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.⁵

¹ 50 N. Y., 280; 16 Johns. R., 233; 17 Johns. R., 108, 195, 225; 19 Johns. R., 153; 20 Johns. R., 313; 7 Johns. C. R., 297; 1 Cow., 450; 3 Cow., 713; 4 Wend., 2; 10 Wend., 547; 18 Wend., 9; 20 Wend., 365; 21 W., 563; 24 W., 215, 337; 28 W., 43; 3 Paige, 45; 5 Paige, 187; 6 Paige, 554; 11 Paige, 484; 1 Barb. Ch. R., 547; 5 Hill, 317, 468; 6 H., 47; 3 D., 381; 3 B., 196; 4 B., 56; 9 B., 350; 14 B., 405, 559; 18 B., 583; 24 B., 232, 248, 446; 27 Barb., 575; 1 N. Y., 538; 3 N. Y., 511; 4 N. Y., 276; 6 N. Y., 176; 7 N. Y., 9, 109; 9 N. Y., 100; 12 N. Y., 541; 13 N. Y., 378; 16 N. Y., 501; 17 N. Y., 235; 18 N. Y., 33; 22 N. Y., 128; 49 N. Y., 280; 55 N. Y., 50, 367; 50 N. Y., 451, 525, 533; 67 N. Y., 227; 63 N. Y., 202; 1 Abb. N. C., 1; 63 N. Y., 381; 70 N. Y., 361; 5 Abb. N. C., 383.

² 1 Cow., 550; 6 Hill, 47; 3 D., 392; 4 D., 374; 15 W., 436; 20 W., 365; 8 Cow., 543; 3 B., 196; 4 B., 64; 18 N. Y., 383; 14 N. Y., 423; 19 N. Y., 445; 39 N. Y., 426; 50 N. Y., 281; 6 Lans., 44; 50 N. Y., 451; 27 Hun, 180; 32 Hun, 294; 36 Hun, 409, 496; 33 Hun, 198; 40 Hun, 29, 194, 290; 42 Hun, 188; 2 Edm. Sel. Cases, 381; 2 N. Y. Crim. R., 155; 3 N. Y. Crim. R., 206; 4 id., 123; 90 N. Y., 886; 100 N. Y., 409.

³ 2 Cow., 815; 1 H., 356; 6 H., 75; 5 W., 251, 463; 8 W., 85; 10 W., 449; 3 Fal., 45; 24 W., 337; 10 B., 35; 14 B., 425; 18 B., 412; 20 B., 825; 13 N. Y., 378; 16 N. Y., 501; 18 N. Y., 199; 27 N. Y., 143; 39 B., 115; 17 A., 4; 43 N. Y., 52; 44 N. Y., 555; 45 N. Y., 473; 45 N. Y., 283; 51 N. Y., 305; 74 N. Y., 332, 406; 1 Abb. N. C., 1; 11 Hun, 193, 358; 18 Hun, 274; 20 Hun, 462; 16 Hun, 42, 426; 74 N. Y., 495; 11 J. & S., 411; 23 Hun, 374, 431; 8 Hun, 21; 4 Abb. Ct. Ap. Dec., 485; 62 Barb., 21; 61 Barb., 27; 51 Barb., 465; 460 How. Pr. R., 162; 17 Abb. Pr. R., 5; 11 Abb. Pr. R., (N. S.), 35; 4 Rob., 311; 4 Rob., 464; 59 N. Y., 83, 92; 3 Hun, 306; 6 Hun, 140; 45 How. Pr., 97; 13 Abb. N. C., 123; 3 N. Y. Crim. R., 61; 25 Hun, 221; 27 Hun, 185; 43 Hun, 182; 103 N. Y., 143.

⁴ 18 J. R., 98; 2 Cow., 432; 43 Hun, 357.

⁵ 50 N. Y., 458; 32 Hun, 594.

⁶ 13 N. Y., 378.

§ 6. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service; and the land and naval forces in time of war, or which this state may keep, with the consent of congress in time of peace; and in cases of petit larceny, under the regulation of the legislature), unless on presentment or indictment of a grand jury; and in any trial in any court whatever, the party accused shall be allowed to appear and defend in person and with counsel as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use, without just compensation.'

Bill of rights.

§ 7. When private property shall be taken for any public use the compensation to be made therefor, when such compensation is not made by the state, shall be ascertained by a jury or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited.'

Private property and roads.

§ 8. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury, that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.'

Freedom of speech and the press.

§ 9. The assent of two-thirds of the members elected to each branch of the legislature, shall be requisite to every bill appropriating the public moneys or property for local or private purposes.'

Two-thirds bills.

§ 10. No law shall be passed abridging the right of the people peaceably to assemble and to petition the government, or any department thereof, nor shall any divorce be granted, otherwise than by due judicial proceedings; nor shall any lottery hereafter be authorized or any sale of lottery tickets allowed within this state.'

Right to petition. Divorces. Lotteries.

¹ 2 J. C. R. 162; 20 J. R., 103; 3 Pai., 45; 5 Pai., 137; 7 Pai., 598; 4 Wend., 9; 10 Wend., 449; 11 Wend., 148; 14 Wend., 54; 15 Wend., 374, 451; 17 Wend., 649; 18 Wend., 9; 19 Wend., 654; 20 Wend., 383; 24 Wend., 65; 23 Wend., 462; 4 Cow., 195; 5 Cow., 346; 7 Cow., 565; 2 D., 272; 1 H., 324; 3 H., 567; 4 H., 110; 6 H., 47; 3 Barb., 275, 459; 4 Barb., 64, 295; 5 Barb., 474; 7 Barb., 297; 416, 506; 8 Barb., 353; 9 Barb., 449, 350; 14 Barb., 403; 15 Barb., 255, 627; 18 Barb., 619, 159; 19 Barb., 118, 166, 179; 21 Barb., 513; 24 Barb., 232, 468; 25 Barb., 9; 3 N. Y., 511; 4 N. Y., 196, 419; 5 N. Y., 285; 6 N. Y., 858, 622; 7 N. Y., 314; 8 N. Y., 241; 9 N. Y., 100; 11 N. Y., 306; 12 N. Y., 29, 486; 13 N. Y., 378, 143; 14 N. Y., 88, 199; 19 N. Y., 116; 25 N. Y., 416; 24 How. P. R., 380, 338; 45 N. Y., 258; 37 N. Y., 270; 53 N. Y., 31; 53 N. Y., 682; 54 N. Y., 132; 54 N. Y., 523; 53 N. Y., 255; 50 N. Y., 230, 525; 49 N. Y., 687; 48 N. Y., 813; 46 N. Y., 441; 61 Barb., 628; 65 Barb., 413; 6 Lans., 45; 47 How. Pr. R., 518; 74 N. Y., 188; 17 Hun., 581; 56 How. Pr. R., 30; 11 J. & S., 292; 20 Hun., 402; 3 Abb. N. C., 306; 70 N. Y., 327; 64 N. Y., 262, 547; 60 N. Y., 242; 72 N. Y., 1; 68 N. Y., 1, 167; 72 N. Y., 330; 66 N. Y., 413, 569; 63 N. Y., 326; 70 N. Y., 223; 67 N. Y., 563; 5 J. & S., 539; 96 N. Y., 374; 52 N. Y., 80, 131; 5 Hun., 297, 475, 482; 57 N. Y., 473; 44 How. Pr., 334; 54 N. Y., 533; 60 N. Y., 116, 242; 63 Barb., 437; 4 Hun., 201; 54 N. Y., 528; 20 Hun., 402; 12 Abb. N. C., 124; 13 id., 187; 16 id., 395; 28 Hun., 156; 27 Hun., 151, 180, 537; 28 Hun., 158, 170, 515; 29 Hun., 646; 30 Hun., 98; 31 Hun., 88, 199, 209; 32 Hun., 577, note; 34 Hun., 362; 35 Hun., 571; 36 Hun., 24, 407, 491; 37 Hun., 541; 38 Hun., 198; 39 Hun., 227, 240, 424, 490; 40 Hun., 22, 199, 230; 42 Hun., 186; 43 Hun., 407; 44 Hun., 162, 181, 479, 493; 90 N. Y., 48, 122; 92 N. Y., 128, 142; 93 N. Y., 97; 94 N. Y., 494; 96 N. Y., 42, 175, 227; 96 N. Y., 302, 377, 484, 569; 100 N. Y., 463; 101 N. Y., 439; 102 N. Y., 176, 471; 104 N. Y., 229, 306, 213; 22 J. & S., 117; 106 N. Y., 293; 105 N. Y., 76, 123, 560; 107 N. Y., 329, 563; 107 N. Y., 427, rev'd; 45 Hun., 460; 108 N. Y., 10, 43, 388.

² 20 J. R., 375; 8 Wend., 103; 4 H., 140; 5 H., 168; 7 H., 9; 3 Barb., 332; 8 Barb., 486; 12 Barb., 446; 15 Barb., 517; 18 Barb., 451; 4 N. Y., 419; 7 N. Y., 486; 9 N. Y., 100; 11 N. Y., 313; 2 N. Y., 190; 27 N. Y., 308; 43 Barb., 198; 42 Barb., 265; 50 N. Y., 525; 39 N. Y., 173; 56 N. Y., 374; 54 N. Y., 526; 53 N. Y., 255; 60 Barb., 137; 63 Barb., 662; 10 Hun., 91; 5 Hun., 175; 63 N. Y., 136; 11 J. & S., 292; 62 N. Y., 530; 1 Hun., 288; 69 N. Y., 599; 18 J. & S., 318; 16 Abb. N. C., 395; 29 Hun., 323; 34 Hun., 447; 35 Hun., 578; 37 Hun., 541; 39 Hun., 426; 62 N. Y., 196; 99 N. Y., 569; 19 Abb. N. C., 217.

³ 26 Wend., 383; 2 H., 249; 31 How. Pr. R., 421; 26 Hun., 396; 37 Hun., 450.

⁴ 4 H., 384; 2 D., 830; 14 Barb., 563; 18 Barb., 620; 8 N. Y., 324; 54 N. Y., 276; 42 N. Y., 378; 47 How. Pr. R., 512; 1 N. Y. S. C. R. (T. & C.), 283; 64 N. Y., 91; 33 Hun., 222; 99 N. Y., 532.

⁵ 7 N. Y., 228; 36 Hun., 396; 43 Hun., 619; 1 Daly, 1, 82.

Eminent domain.

§ 11. The people of this state, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the state; and all lands the title to which shall fail, from a defect of heirs, shall revert, or escheat to the people.¹

Feudal tenures.

§ 12. All feudal tenures of every description, with all their incidents, are declared to be abolished, saving however all rents and services certain which at any time heretofore have been lawfully created or reserved.

All lands allodial.

§ 13. All lands within this state are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates.

Certain leases limited.

§ 14. No lease or grant of agricultural land, for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.²

Fines and quarter sales abolished.

§ 15. All fines, quarter sales, or other like restraints upon alienation reserved in any grant of land, hereafter to be made, shall be void.³

Certain purchases from Indians void.

§ 16. No purchase or contract for the sale of lands in this state made since the fourteenth day of October, one thousand seven hundred and seventy-five, or which may hereafter be made, of, or with the Indians, shall be valid, unless made under the authority, and with the consent of the legislature.⁴

Parts of the common law, acts and statutes declared to be law.

§ 17. Such parts of the common law and of the acts of the legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred seventy-seven, which have not since expired, or been repealed or altered; and such acts of the legislature of this state as are now in force, shall be and continue the law of this state, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this constitution, are hereby abrogated; and the legislature, at its first session after the adoption of this constitution, shall appoint three commissioners, whose duty it shall be to reduce into a written and systematic code the whole body of the law of this state, or so much and such parts thereof as to the said commissioners shall seem practicable and expedient. And the said commissioners shall specify such alterations and amendments therein as they shall deem proper, and they shall at all times make reports of their proceedings to the legislature, when called upon to do so; and the legislature shall pass laws regulating the tenure of office, the filling of vacancies therein, and the compensation of the said commissioners and shall also provide for the publication of the said code, prior to its being presented to the legislature for adoption.⁵

Code.

Grants of land by the king of Great Britain void.

§ 18. All grants of land within this state, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this constitution shall effect any grants of land within this state, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day; or shall affect any such grants or charters since made by this state, or by persons acting under its authority; or shall impair the obligation of any debts contracted by the state, or individuals, or bodies corporate, or any other rights of

Certain rights not affected.

¹ 8 Wend., 188; 17 Wend., 313; 6 N. Y., 522; 3 N. Y., S. C. R. (T. & C.), 235.

² 22 Barb., 606; 6 N. Y., 457; 41 N. Y., 480; 76 N. Y., 801; 62 N. Y., 524.

³ 6 N. Y., 467.

⁴ 20 J. R., 636; 7 N. Y., 401, 428; 3 N. Y., S. C. R. (T. & C.), 235.

⁵ 56 N. Y., 445; 8 N. Y., 525; 54 Barb., 488; 39 Barb., 115; 7 Paige, 77; 4 N. Y. Crim. R., 104; 33 Hun, 686, note; 92 N. Y., 403, 481.

property, or any suits, actions, rights of action, or other proceedings in courts of justice.¹

ARTICLE II.

*§ 1. Every male citizen of the age of twenty-one years who shall have been a citizen for ten days and an inhabitant of this state one year next preceding an election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the state, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.²

Qualification of electors.

*§ 2. No person who shall receive, expect or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature, at the session thereof next after the adoption of this section shall, and from time to time thereafter may, enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.³

Persons excluded from right of suffrage.

Challenge.

Laws to be passed excluding from right of suffrage.

§ 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house, or other asylum, at public expense; nor while confined in any public prison.⁴

Certain employments not to affect residence of voters.

§ 4. Laws shall be made for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage hereby established.

Proofs of right to vote.

§ 5. All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

Election to be by ballot.

¹ 9 N. Y., 349; 10 Barb., 130.
² 50 N. Y., 458; 39 N. Y., 425; 42 Hun, 116.
³ 51 N. Y., 458; 45 N. Y., 814.
⁴ 43 Hun, 118; 107 N. Y., 55.

* As amended by vote of the people, Nov. 3, 1874. Went into effect January 1, 1875.

ARTICLE III.

- Legislative powers.** SECTION 1. The legislative power of this state shall be vested in a senate and assembly.¹
- Senate, number of.** § 2. The senate shall consist of thirty-two members, and the senators shall be chosen for two years. The assembly shall consist of one hundred and twenty-eight members, who shall be annually elected.
- Assembly, number of.**
- Senatorial districts.** § 3. The state shall be divided into thirty-two districts, to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to thirty-two inclusive.*
- No. 1** District number one (1) shall consist of the counties of Suffolk, Richmond and Queens.
- No. 2** District number two (2) shall consist of the county of Kings.
- Nos. 3, 4, 5, 6.** District number three (3), number four (4), number five (5), and number six (6) shall consist of the city and county of New York. And the board of supervisors of said city and county shall, on or before the first day of May, one thousand eight hundred and forty-seven, divide the said city and county into the number of senate districts, to which it is entitled, as near as may be of an equal number of inhabitants, excluding aliens and persons of color not taxed, and consisting of convenient and contiguous territory; and no assembly district shall be divided in the formation of a senate district. The board of supervisors, when they shall have completed such division, shall cause certificates thereof, stating the number and boundaries of each district and the population thereof, to be filed in the office of the secretary of state, and of the clerk of said city and county.
- No. 7.** District number seven (7) shall consist of the counties of Westchester, Putnam and Rockland.
- No. 8.** District number eight (8) shall consist of the counties of Dutchess and Columbia.
- No. 9.** District number nine (9) shall consist of the counties of Orange and Sullivan.
- No. 10.** District number ten (10) shall consist of the counties of Ulster and Greene.
- No. 11.** District number eleven (11) shall consist of the counties of Albany and Schenectady.
- No. 12.** District number twelve (12) shall consist of the county of Rensselaer.
- No. 13.** District number thirteen (13) shall consist of the counties of Washington and Saratoga.
- No. 14.** District number fourteen (14) shall consist of the counties of Warren, Essex and Clinton.
- No. 15.** District number fifteen (15) shall consist of the counties of St. Lawrence and Franklin.
- No. 16.** District number sixteen (16) shall consist of the counties of Herkimer, Hamilton, Fulton and Montgomery.
- No. 17.** District number seventeen (17) shall consist of the counties of Schoharie and Delaware.
- No. 18.** District number eighteen (18) shall consist of the counties of Otsego and Chenango.
- No. 19.** District number nineteen (19) shall consist of the county of Oneida.
- No. 20.** District number twenty (20) shall consist of the counties of Madison and Oswego.

¹ 18 Wend. . 9; 21 id., 563; 1 Hill, 324; 5 Hill, 121; 15 Barb., 112, 122; 23 Barb., 355, 33; 8 N. Y., 488; 10 N. Y., 374; 12 N. Y., 541; 19 N. Y., 445; 55 id., 361, 367, 613; 53 id., 245; 58 N. Y., 295; 7 Lans., 215; 57 N. Y., 177; 4 T. & C., 365, 381; 56 N. Y., 261; 2 Hun, 475; 50 N. Y., 451; 5 Hun, 626; 11 Hun, 610; 71 N. Y., 537; 70 N. Y., 237; 63 N. Y., 303, 239; 5 Abb. N. C., 1; 9 Hun, 153; 7 J. & S., 192; 64 N. Y., 262; 74 N. Y., 95; id., 161; id., 216; id., 509; 67 N. Y., 528; 1 Sheld., 317; 66 N. Y., 129; 68 N. Y., 83; 4 Hun, 92; 32 Hun, 530.

* For the existing senate districts, see chapter 208, laws of 1879, post.

District number twenty-one (21) shall consist of the counties of Jefferson and Lewis. No. 21.

District number twenty-two (22) shall consist of the county of Onondaga. No. 22.

District number twenty-three (23) shall consist of the counties of Cortland, Broome and Tioga. No. 23.

District number twenty-four (24) shall consist of the counties of Cayuga and Wayne. No. 24.

District number twenty-five (25) shall consist of the counties of Tompkins, Seneca and Yates. No. 25.

District number twenty-six (26) shall consist of the counties of Steuben and Chemung. No. 26.

District number twenty-seven (27) shall consist of the county of Monroe. No. 27.

District number twenty-eight (28) shall consist of the counties of Orleans, Genesee and Niagara. No. 28.

District number twenty-nine (29) shall consist of the counties of Ontario and Livingston. No. 29.

District number thirty (30) shall consist of the counties of Allegany and Wyoming. No. 30.

District number thirty-one (31) shall consist of the county of Erie. No. 31.

District number thirty-two (32) shall consist of the counties of Chautauqua and Cattaraugus. No. 32.

§ 4. An enumeration of the inhabitants of the state shall be taken, under the direction of the legislature, in the year one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and the said districts shall be so altered by the legislature, at the first session after the return of every enumeration, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, and persons of color not taxed; and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district, except such county shall be equitably entitled to two or more senators.¹

Census, when to be taken.

Senate districts altered.

To remain unaltered.

* § 5. The assembly shall consist of one hundred and twenty-eight members, elected for one year. The members of assembly shall be apportioned among the several counties of the state, by the legislature, as nearly as may be, according to the number of their respective inhabitants, excluding aliens, and shall be chosen by single districts.² The assembly districts shall remain as at present organized, until after the enumeration of the inhabitants of the state, in the year eighteen hundred and seventy-five. The legislature, at its first session after the return of every enumeration, shall apportion the members of assembly among the several counties of the state, in manner aforesaid, and the board of supervisors in such counties as may be entitled under such apportionment, to more than one member, except the city and county of New York, and in said city and county the board of aldermen of said city shall assemble at such time as the legislature making such apportionment shall prescribe, and divide their respective counties into assembly districts, each of which districts shall consist of convenient and contiguous territory, equal to the number of members of assembly to which such counties shall be entitled, and shall cause to be filed in the offices of the secretary of state and the clerks of their respective counties a description of such districts, specifying the number of each district and the population thereof, according to the last preceding

Members of assembly, number of, and how apportioned and chosen.

Boards of supervisors in certain counties, and board of aldermen in N. York city to divide the same into assembly districts. Description of assembly districts to be filed.

¹ 19 N. Y., 55; 20 N. Y., 447; 45 N. Y., 814; 90 N. Y., 68.

² For the existing apportionment of members of assembly, see chapter 208, laws of 1879, *post*.

³ As amended by vote of the people, November 3, 1874. Went into effect Jan. 1, 1875.

Members to be re-apportioned. Districts to be altered.

To remain unaltered.

Each county entitled to one member except Hamilton.

Hamilton to elect with Fulton.

Pay of members.

Mileage.

No member to receive civil appointment.

Persons disqualified from being members.

Time of annual election.

Powers of each house. Contested seats.

Journals to be kept.

Freedom in debate.

enumeration as near as can be ascertained, and the apportionment and districts shall remain unaltered until another enumeration shall be made as herein provided. No town shall be divided in the formation of assembly districts. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of the assembly, and no new county shall be hereafter erected, unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, be entitled to a member. But the legislature may abolish the said county of Hamilton, and annex the territory thereof to some other county or counties. Nothing in this section shall prevent division at any time of counties and towns, and the erection of new towns and counties by the legislature.¹

*§ 6. Each member of the legislature shall receive for his services an annual salary of one thousand five hundred dollars. The members of either house shall also receive the sum of one dollar for every ten miles they shall travel, in going to and returning from their place of meeting, once in each session, on the most usual route. Senators, when the senate alone is convened in extraordinary session, or when serving as members of the court for the trial of impeachments, and such members of the assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day.¹

*§ 7. No member of the legislature shall receive any civil appointment within this state, or the senate of the United States, from the governor, the governor and senate, or from the legislature, or from any city government during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void.¹

*§ 8. No person shall be eligible to the legislature who, at the time of his election, is, or within one hundred days previous thereto has been, a member of congress, a civil or military officer under the United States, or any officer under any city government; and if any person shall, after his election as a member of the legislature, be elected to congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat.

§ 9. The elections of senators and members of assembly, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the legislature.

§ 10. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members; shall choose its own officers; and the senate shall choose a temporary president, when the lieutenant-governor shall not attend as president, or shall act as governor.²

§ 11. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

§ 12. For any speech or debate in either house of the legislature, the members shall not be questioned in any other place.

¹ 15 N. Y., 41; 30 N. Y., 447; 2 Abb. Ct. Ap. Dec., 534; 21 Wend., 563; 19 Barb., 41.

² 6 N. Y., 324; 3 Cow., 666; 80 N. Y., 117; 33 Hun, 586; 98 N. Y., 523.

³ As amended by vote of the people, Nov. 3, 1874. Went into effect Jan. 1, 1875.

§ 13. Any bill may originate in either house of the legislature, and all bills passed by one house may be amended by the other.

Bills may originate in either house. Enacting clause of bills.

§ 14. The enacting clause of all bills shall be "The People of the State of New York, represented in senate and assembly, do enact as follows," and no law shall be enacted except by bill.¹

§ 15. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the legislature, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.²

Majority of members elected required to pass bills.

§ 16. No private or local bill, which may be passed by the legislature, shall embrace more than one subject, and that shall be expressed in the title.³

Private or local bills.

*§ 17. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.⁴

Existing law not to be made a part of an act except by inserting it therein.

*§ 18. The legislature shall not pass a private or local bill in any of the following cases:

Private and local bills, in what cases they may not be passed.

Changing the names of persons.

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for the election of members of boards of supervisors.

Selecting, drawing, summoning or impaneling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Providing for building bridges, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the state.

The legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the general term of the supreme court, in the district in which it is proposed to be constructed, may,

General laws to be passed.

Street railroads, condition upon which they may be authorized.

¹ 35 How. Pr. R., 50; 102 N. Y., 475.

² 27 Barb., 575, 584; 8 N. Y., 324; 31 How. Pr. R., 289.

³ 42 N. Y., 188; 50 N. Y., 553; 49 N. Y., 132; 42 N. Y., 410; 56 N. Y., 231; 52 N. Y., 651; 35 N. Y., 449; 19 N. Y., 116; 16 N. Y., 56; 8 N. Y., 241; 5 N. Y., 225; 61 Barb., 462; 54 Barb., 485; 22 Barb., 634; 19 Barb., 81; 15 Barb., 637; 3 Barb., 162; 44 How. Pr. R., 376; 45 How. Pr. R., 155; 47 How. Pr. R., 509, 520; 13 Abb. Pr. R. (N. S.), 131; 1 N. Y. S. C. R. (T. & C.), 311; 3 id., 235; 4 id., 378; 49 N. Y., 183; 50 N. Y., 504; id., 523; 58 N. Y., 323; id., 516; 59 N. Y., 83; 70 N. Y., 327; 60 N. Y., 507; 1 Hun, 568; 3 Hun, 97; 4 T. & C., 87; id., 385, 378; 13 Abb. N. S., 121; 6 J. & S., 493; 47 How. Pr., 490; 48 How. Pr., 457; 74 N. Y., 95; 76 N. Y., 186; 79 N. Y., 279; 22 Hun, 206; 56 N. Y., 261; 67 N. Y., 568; 2 N. Y. Crim. R., 216; 3 id., 318; 16 Abb. N. C., 200; 27 Hun, 12; 29 Hun, 70; 31 Hun, 426, 516; 33 Hun, 296; 36 Hun, 24, 493; 39 Hun, 234; 43 Hun, 124, 614; 82 N. Y., 196; 86 N. Y., 1, 487, 623; 89 N. Y., 67, 392; 91 N. Y., 616; 92 N. Y., 116, 191; 94 N. Y., 497; 96 N. Y., 227; 99 N. Y., 532, 569; 101 N. Y., 11, 189, 303; 102 N. Y., 58; 107 N. Y., 185, 329, 593.

⁴ 32 Hun, 86; 33 Hun, 393; 34 Hun, 456; 37 Hun, 60; 39 Hun, 223; 67 N. Y., 569; 98 N. Y., 158; 101 N. Y., 9, 183, 294; 104 N. Y., 48; 107 N. Y., 593.

* Sections 17 to 25, both inclusive, added by vote of the people, Nov. 3, 1874. Went into effect Jan. 1, 1875.

upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.¹

The legislature not to audit or allow any private claim. Bill imposing a tax, manner of passing. Same subject.

*§ 19. The legislature shall neither audit nor allow any private claim or account against this state, but may appropriate money to pay such claims as shall have been audited and allowed according to law.²

*§ 20. Every law which imposes, continues or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.³

*§ 21. On the final passage, in either house of the legislature, of any act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges or commutes any claim or demand of the state, the question shall be taken by yeas and nays, which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.⁴

Board of supervisors.

*§ 22. There shall be in the several counties, except in cities whose boundaries are the same as those of the county, a board of supervisors, to be composed of such members, and elected in such manner, and for such period, as is or may be provided by law. In any such city the duties and powers of a board of supervisors may be devolved upon the common council or board of aldermen thereof.

Local legislative powers conferred on boards of supervisors. No extra compensation to be granted to a public officer, servant, agent, or contractor. Sections seventeen and eighteen not to apply to certain bills. Executive power.

*§ 23. The legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the state such further powers of local legislation and administration as the legislature may from time to time deem expedient.⁵

*§ 24. The legislature shall not, nor shall the common council of any city nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor.⁶

§ 25. Sections seventeen and eighteen of this article shall not apply to any bill, or the amendments to any bill, which shall be reported to the legislature by commissioners who have been appointed pursuant to law to revise the statutes.⁷

ARTICLE IV.

*SECTION 1. The executive power shall be vested in a governor, who shall hold his office for three years; a lieutenant-governor shall be chosen at the same time, and for the same term. The governor and lieutenant-governor elected next preceding the time when this section shall take effect shall hold office during the term for which they were elected.

Qualifications of governor.

*§ 2. No person shall be eligible to the office of governor or lieutenant-governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years, next preceding his election, a resident of this state.

Election of governor and lieutenant-governor.

§ 3. The governor and lieutenant-governor shall be elected at the times and places of choosing members of the assembly. The persons respectively having the highest number of votes for governor and lieu-

¹ 5 Abb. N. C., 383; 70 N. Y., 327, 361; 75 N. Y., 335; 3 Abb. N. C., 467, 476; 67 N. Y., 569; 12 Daly, 108, 504; 13 Daly 252; 26 Hun, 492; 27 Hun, 582; 28 Hun, 469, 476; 29 Hun, 303, 391, 626; 30 Hun, 93, 296; 31 Hun, 72; 32 Hun, 82; 33 Hun, 220, 333; 34 Hun, 422; 37 Hun, 446; 38 Hun, 223; 39 Hun, 223; 40 Hun, 20, 190; 41 Hun, 425; 42 Hun, 277, 621; 36 N. Y., 1; 89 N. Y., 75; 92 N. Y., 1, 129; 93 N. Y., 313; 95 N. Y., 133; 96 N. Y., 158; 98 N. Y., 146, 585; 99 N. Y., 538, 569; 102 N. Y., 48, 343, 471; 107 N. Y., 42, art. § 42 Hun, 621; 107 N. Y., 159.

² 89 N. Y., 66; 102 N. Y., 48.

³ 6 Lans., 92; 27 Hun, 183; 36 Hun, 496; 92 N. Y., 311; 100 N. Y., 585; 104 N. Y., 306; 106 N. Y., 104; 105 N. Y., 76, 660.

⁴ 54 N. Y., 276; 1 T. & C., 290; 56 N. Y., 390; 4 T. & C., 365; 98 N. Y., 313.

⁵ 13 N. Y., 143; 8 N. Y., 472; 47 How. Fr. R., 464; 7 Hun, 52; 28 Hun, 476; 33 Hun, 222; 92 N. Y., 1; 99 N. Y., 338.

⁶ 26 Hun, 508; 33 Hun, 574; 80 N. Y., 52; 102 N. Y., 48.

⁷ 30 Hun, 98; 92 N. Y., 128.

• As amended by vote of the people, Nov. 3, 1874. Went into effect January 1, 1875.

tenant-governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for governor, or for lieutenant-governor, the two houses of the legislature, at its next annual session, shall, forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for governor or lieutenant-governor.

*§ 4. The governor shall be commander-in-chief of the military and naval forces of the state. He shall have power to convene the legislature (or the senate only) on extraordinary occasions. At extraordinary sessions no subject shall be acted upon, except such as the governor may recommend for consideration. He shall communicate by message to the legislature at every session the condition of the state, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed. He shall receive for his services an annual salary of ten thousand dollars, and there shall be provided for his use a suitable and furnished executive residence.¹

Powers and duties of governor.

Compensation.

§ 5. The governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the legislature at its next meeting, when the legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the legislature each case of reprieve, commutation or pardon granted; stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

Pardoning power.

§ 6. In case of the impeachment of the governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the state, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease. But when the governor shall, with the consent of the legislature, be out of the state in time of war, at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the state.²

When powers of governor to devolve on lieutenant-governor.

§ 7. The lieutenant-governor shall possess the same qualifications of eligibility for office as the governor. He shall be president of the senate, but shall have only a casting vote therein. If during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the state, the president of the senate shall act as governor until the vacancy be filled, or the disability shall cease.

Qualifications, powers and duties of lieutenant-governor.

*§ 8. The lieutenant-governor shall receive for his services an annual salary of five thousand dollars, and shall not receive or be entitled to any other compensation, fee or perquisite for any duty or service he may be required to perform by the constitution or by law.

Compensation of lieutenant-governor.

*§ 9. Every bill which shall have passed the senate and assembly shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected to that house shall

Bills to be presented to the governor for signature. If returned by him with objections, how disposed of.

¹ 50 N. Y., 288; 59 Barb., 195.

² 3 N. Y. Crim R. 241; 36 Hun, 98.

* As amended by vote of the people, November 3, 1874. Went into effect January 1, 1875.

Bills to be returned within ten days.

After adjournment, bills must be approved in thirty days, else cannot become law.

Governor may object to items of appropriation in any bill.

agree to pass the bill, it shall be sent together with the objections to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the governor. In all such cases, the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the governor. No bill shall become a law after the final adjournment of the legislature, unless approved by the governor within thirty days after such adjournment. If any bill presented to the governor contain several items of appropriation of money, he may object to one or more of such items while approving of the other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the governor. All the provisions of this section, in relation to bills not approved by the governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.¹

ARTICLE V.

State officers, how elected and terms of office.

SECTION 1. The secretary of state, comptroller, treasurer and attorney-general shall be chosen at a general election, and shall hold their offices for two years. Each of the officers in this article named (except the speaker of the assembly) shall, at stated times during his continuance in office, receive for his services a compensation, which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive, to his use, any fees or perquisites of office, or other compensation.

State engineer and surveyor, how chosen and term of office.

§ 2. A state engineer and surveyor shall be chosen at a general election, and shall hold his office two years, but no person shall be elected to said office who is not a practical engineer.

Superintendent of public works; appointment, powers and duties.

*§ 3. A superintendent of public works shall be appointed by the governor, by and with the advice and consent of the senate, and hold his office until the end of the term of the governor by whom he was nominated, and until his successor is appointed and qualified. He shall receive a compensation to be fixed by law. He shall be required by law to give security for the faithful execution of his office before entering upon the duties thereof. He shall be charged with the execution of all laws relating to the repair and navigation of the canals, and also of those relating to the construction and improvement of the canals, except so far as the execution of the laws relating to such construction or improvement shall be confided to the state engineer and surveyor; subject to the control of the legislature, he shall make the rules and regulations for the navigation or use of the canals. He may be suspended or removed from office by the governor, whenever, in his judgment, the public interest shall so require; but, in case of the removal of such superintendent of public works from office, the governor shall file with the secretary of state a statement of the cause of such removal, and shall report such removal, and the cause thereof, to the legislature at its next session.

¹ 45 N. Y., 814; 59 Barb., 185.

• As amended, by vote of the people, Nov. 7, 1876. Went into effect, Jan. 1, 1877.

The superintendent of public works shall appoint not more than three assistant superintendents, whose duties shall be prescribed by him, subject to modification by the legislature, and who shall receive for their services a compensation to be fixed by law. They shall hold their office for three years, subject to suspension or removal by the superintendent of public works, whenever, in his judgment, the public interest shall so require. Any vacancy in the office of any such assistant superintendent shall be filled, for the remainder of the term for which he was appointed, by the superintendent of public works; but in case of the suspension or removal of any such assistant superintendent by him, he shall at once report to the governor, in writing, the cause of such removal. All other persons employed in the care and management of the canals, except collectors of tolls, and those in the department of the state engineer and surveyor, shall be appointed by the superintendent of public works, and be subject to suspension or removal by him. The office of canal commissioner is abolished from and after the appointment and qualification of the superintendent of public works, until which time the canal commissioners shall continue to discharge their duties as now provided by law. The superintendent of public works shall perform all the duties of the canal commissioners, and board of canal commissioners, as now declared by law, until otherwise provided by the legislature. The governor, by and with the advice and consent of the senate, shall have power to fill vacancies in the office of superintendent of public works; if the senate be not in session, he may grant commissions which shall expire at the end of the next succeeding session of the senate.'

*§ 4. A superintendent of state prisons shall be appointed by the governor, by and with the advice and consent of the senate, and hold his office for five years, unless sooner removed; he shall give security in such amount, and with such sureties, as shall be required by law, for the faithful discharge of his duties; he shall have the superintendence, management and control of state prisons, subject to such laws as now exist, or may hereafter be enacted; he shall appoint the agents, wardens, physicians and chaplains of the prisons. The agent and warden of each prison shall appoint all other officers of such prison, except the clerk, subject to the approval of the same by the superintendent. The comptroller shall appoint the clerks of the prisons. The superintendent shall have all the powers and perform all the duties not inconsistent herewith, which have heretofore been had and performed by the inspectors of state prisons; and from and after the time when such superintendent of state prisons shall have been appointed and qualified, the office of inspector of state prisons shall be and hereby is abolished. The governor may remove the superintendent for cause at any time, giving to him a copy of the charges against him, and an opportunity to be heard in his defence.'

Superintendent of state prisons; appointment, powers and duties.

§ 5. The lieutenant-governor, speaker of the assembly, secretary of state, comptroller, treasurer, attorney-general, and state engineer and surveyor, shall be the commissioners of the land office. The lieutenant-governor, secretary of state, comptroller, treasurer, and attorney-general, shall be the commissioners of the canal fund. The canal board shall consist of the commissioners of the canal fund, the state engineer and surveyor, and the canal commissioners.

Commissioners of the land office. Commissioners of the canal fund. Canal board.

§ 6. The powers and duties of the respective boards, and of the several officers in this article mentioned, shall be such as now are or hereafter may be prescribed by law.'

Powers and duties of boards, &c.

§ 7. The treasurer may be suspended from office by the governor, during the recess of the legislature, and until thirty days after the commencement of the next session of the legislature, whenever it shall

Treasurer may be suspended by governor.

192 N. Y., 191; 98 N. Y., 593.

* 40 Hun., 235.

* 99 N. Y., 508.

• As amended by vote of the people, Nov. 7, 1876. Went into effect, Jan. 1, 1877.

appear to him that such treasurer has, in any particular, violated his duty. The governor shall appoint a competent person to discharge the duties of the office, during such suspension of the treasurer.¹

Certain
offices abol-
ished.

§ 8. All offices for the weighing, gauging, measuring, culling, or inspecting any merchandise, produce, manufacture or commodity whatever, are hereby abolished, and no such office shall hereafter be created by law; but nothing in this section contained, shall abrogate any office created for the purpose of protecting the public health, or the interests of the state in its property, revenue, tolls, or purchases or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.²

ARTICLE VI.*

Impeach-
ment, as-
sembly has
power of.

SECTION 1. The assembly shall have the power of impeachment, by a vote of the majority of all the members elected. The court for the trial of impeachments shall be composed of the president of the senate, the senators, or a major part of them, and the judges of the court of appeals, or the major part of them. On the trial of an impeachment against the governor, the lieutenant-governor shall not act as a member of the court. No judicial officer shall exercise his office, after articles of impeachment against him shall have been preferred to the senate, until he shall have been acquitted. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try the impeachment, according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust, or profit, under this state; but the party impeached shall be liable to indictment and punishment according to law.³

Effect of
judgment.

Court of
appeals.
Judges
how
chosen.

§ 2. There shall be a court of appeals, composed of a chief judge and six associate judges, who shall be chosen by the electors of the state, and shall hold their office for the term of fourteen years from and including the first day of January next after their election. At the first election of judges under this constitution, every elector may vote for the chief and only four of the associate judges. Any five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have the appointment, with the power of removal, of its reporter and clerk, and of such attendants as may be necessary.⁴

Appoint-
ment of
clerk.

Vacancies
in office of
judge of
court of
appeals
how filled.

§ 3. When a vacancy shall occur, otherwise than by expiration of term, in the office of chief or associate judge of the court of appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the governor by and with the advice and consent of the senate, if the senate shall be in session, or if not, the governor alone, may appoint to fill such vacancy. If any such appointment of chief judge shall be made from among the associate judges, a temporary appointment of associate judge shall be made in like manner; but in such

¹ 37 Hun, 450.

² 45 N. Y., 814; 17 N. Y., 141.

³ 52 Hun, 588; 35 Hun, 522; 33 N. Y., 98; 2 N. Y. Crim. R., 150.

⁴ 1 N. Y., 17; 3 N. Y., 547; 42 How. Pr. R., 262; 58 N. Y., 409.

[* Article 6 of the constitution (except section 28) was framed by delegates elected April 23, 1867, under chapter 194, laws of 1867, to a constitutional convention (convened pursuant to section 2 of article 13 of the constitution, by a vote of the people at the general election held November 6, 1866), which convention met in the city of Albany, June 4, 1867, and adjourned February 28, 1868.

Article 6 (except section 28) was submitted separately to the people, pursuant to chapter 318, laws of 1869, at the general election held November 2, 1869, and declared ratified and adopted by the board of state canvassers, by certificate of determination, dated December 6, 1869, the official vote thereon, as declared, standing, "for the amended judiciary article," 247,240 votes, and "against the amended judiciary article," 240,442 votes.]

case, the person appointed chief judge shall not be deemed to vacate his office of associate judge any longer than until the expiration of his appointment as chief judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.¹

§ 4. Upon the organization of the court of appeals, under this article, the causes then pending in the present court of appeals shall become vested in the court of appeals hereby established. Such of said causes as are pending on the first day of January, eighteen hundred and sixty-nine shall be heard and determined by a commission, to be composed of five commissioners of appeals, four of whom shall be necessary to constitute a quorum; but the court of appeals hereby established may order any of said causes to be heard therein. Such commission shall be composed of the judges of the present court of appeals, elected or appointed thereto, and a fifth commissioner who shall be appointed by the governor by and with the advice and consent of the senate; or, if the senate be not in session, by the governor; but in such case, the appointment shall expire at the end of the next session.

Causes pending in court of appeals to be referred to commissioners of appeals.

§ 5. If any vacancy shall occur in the office of the said commissioners, it shall be filled by appointment by the governor by and with the advice and consent of the senate; or if the senate is not in session, by the governor; but in such case, the appointment shall expire at the end of the next session. The commissioners shall appoint, from their number, a chief commissioner, and may appoint and remove such attendants as may be necessary. The reporter of the court of appeals shall be the reporter of said commission. The decisions of the commission shall be certified to, and entered and enforced, as the judgments of the court of appeals. The commission shall continue until the causes committed to it are determined, but not exceeding three years; and all causes then undetermined shall be heard by the court of appeals.

Commissioners of appeals. Vacancies, how filled.

Chief commissioner to be appointed.

* § 6. There shall be the existing supreme court with general jurisdiction in law and equity, subject to such appellate jurisdiction of the court of appeals as now is or may be prescribed by law, and it shall be composed of the justices now in office, with one additional justice to be elected as hereinafter provided, who shall be continued during their respective terms, and of their successors. The existing judicial districts of the state are continued until changed pursuant to this section.† Five of the justices shall reside in the district in which is the city of New York, and five in the second judicial district, and four in each of the other districts. The legislature may alter the districts, without increasing the number, once after every enumeration, under this constitution of the inhabitants of the state.²

Supreme court, jurisdiction.

This section also amended in 1888, by adding provisions for the second division of the court of appeals. See post, p 110.

§ 7. At the first session of the legislature, after the adoption of this article, and from time to time thereafter as may be necessary, but not oftener than once in five years, provisions shall be made for organizing, in the supreme court, not more than four general terms thereof, each to be composed of a presiding justice, and not more than three other justices, who shall be designated, according to law, from the whole number of justices. Each presiding justice shall continue to act as such during his term of office. Provisions shall be made by law for holding the general terms in each judicial district. Any justice of the supreme

Terms of supreme court.

¹ 4 Abb. Ct. Ap. Dec. 213.
² 45 N. Y., 814; 49 N. Y., 230; 53 N. Y., 450; 32 N. Y., 57; 13 N. Y., 468; 2 N. Y., 186; 65 Barb., 294; 21 Barb., 424; 33 How. Pr. R., 513; 42 How. Pr. R., 268; 3 Abb. Pr. R., (N. S.), 199; 13 Abb. Pr. R. (N. S.), 6; 3 Hun, 375; 58 N. Y., 489; 75 N. Y., 528; 79 N. Y., 582.
 * As amended by a vote of the people, Nov. 4, 1879. Went into effect January 1, 1880. See also post, § 23 of this article, added in 1882.
 † See L. 1847, chap. 241, L. 1867, chap. 465, and L. 1876, chap. 24, for existing judicial districts.

court may hold special terms and circuit courts, and may preside in courts of oyer and terminer, in any county.¹

Judge or justice may not sit in review of decisions made by him, &c.

§ 8. No judge or justice shall sit, at a general term of any court, or in the court of appeals, in review of a decision made by him, or by any court of which he was at the time, a sitting member. The testimony in equity cases shall be taken in like manner as in cases at law; and except as herein otherwise provided, the legislature shall have the same power to alter and regulate the jurisdiction and proceedings in law and equity that they have heretofore exercised.²

Vacancy in office of justice of supreme court, how filled.

§ 9. When a vacancy shall occur, otherwise than by expiration of term, in the office of justice of the supreme court, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until any vacancy shall be so filled, the governor by and with the advise and consent of the senate, if the senate shall be in session, or if not in session, the governor may appoint to fill such vacancy. Any such appointment shall continue until and including the last day of December next after the election at which the vacancy shall be filled.³

Judges of court of appeals, or justices of supreme court to hold no other office. Removals, proceedings in relation to.

§ 10. The judges of the court of appeals, and the justices of the supreme court, shall not hold any other office or public trust. All votes for any of them, for any other than a judicial office, given by the legislature or the people, shall be void.⁴

§ 11. Judges of the court of appeals, and justices of the supreme court may be removed by concurrent resolution of both houses of the legislature, if two-thirds of all the members elected to each house concur therein. All judicial officers, except those mentioned in this section, and except justices of the peace and judges and justices of inferior courts not of record, may be removed by the senate, on the recommendation of the governor, if two-thirds of all the members elected to the senate concur therein. But no removal shall be made, by virtue of this section, unless the cause thereof be entered on the journals, nor unless the party complained of shall have been served with a copy of the charges against him, and shall have had an opportunity of being heard. On the question of removal, the yeas and nays shall be entered on the journal.⁵

City courts.

*§ 12. The superior court in the city of New York, the court of common pleas for the city and county of New York, the superior court of Buffalo, and the city court of Brooklyn, are continued with the powers and jurisdiction they now severally have, and such further civil and criminal jurisdiction as may be conferred by law. The superior court of New York shall be composed of the six judges in office at the adoption of this article, and their successors. The court of common pleas of New York, of the three judges then in office, and their successors, and three additional judges. The superior court of Buffalo, of the judges now in office, and their successors; and the city court of Brooklyn, of such number of judges, not exceeding three, as may be provided by law. The judges of said courts, in office at the adoption of this article, are continued until the expiration of their terms. A chief judge shall be appointed by the judges of each of said courts, from their own number, who shall act as such during his official term. Vacancies in the office of the judges named in this section, occurring otherwise than by expiration of term, shall be filled in the same manner as vacancies in the supreme court. The legislature may provide for detailing judges of the superior court and court of common pleas of New York to hold circuits and special terms of the supreme court in that city; and for detailing

¹ 47 N. Y., 382; 49 N. Y., 290. For the existing judicial departments, see § 28 of this article, adopted November 4, 1893; and L. 1893, ch. 329.

² 48 N. Y., 249; 42 N. Y., 276; 17 N. Y., 270; 13 Abb. N. C., 168; 27 Hun., 420, 569; 90 N. Y., 584. 44 Hun., 567.

³ 50 N. Y., 238, 291; 49 N. Y., 290; 47 N. Y., 375; 45 N. Y., 616; 13 N. Y., 850; 42 How. Pr. R., 286.

⁴ 52 N. Y., 473; 49 N. Y., 290; 4 Abb. Ct. Ap. Dec., 213; 30 Hun., 154.

⁵ 49 N. Y., 289; 17 N. Y., 370; 32 Hun., 586.

* As amended by vote of the people, Nov. 2, 1890. Went into effect Jan. 1, 1891.

judges of the city court of Brooklyn, to hold circuits and special terms of the supreme court in Kings county as the public interest may require.¹

* § 13. Justices of the supreme court shall be chosen by the electors of their respective judicial districts. Judges of all the courts mentioned in the last preceding section shall be chosen by the electors of the cities respectively in which the said courts are instituted. The official terms of the said justices and judges who shall be elected after the adoption of this article shall be fourteen years from and including the first day of January next after their election. But no person shall hold the office of justice or judge of any court longer than until and including the last day of December next after he shall be seventy years of age. The compensation of every judge of the court of appeals, and of every justice of the supreme court, whose term of office shall be abridged pursuant to this provision, and who shall have served as such judge or justice ten years or more, shall be continued during the remainder of the term for which he was elected.²

Certain judges how chosen ; terms of office ; restriction as to age ; pension.

§ 14. The judges and justices hereinbefore mentioned shall receive for their services a compensation to be established by law, which shall not be diminished during their official terms. Except the judges of the court of appeals and the justices of the supreme court, they shall be paid, and the expenses of their courts defrayed, by the cities or counties in which such courts are instituted, as shall be provided by law.³

Compensation of judges or justices, not to be diminished during term of office. County courts.

§ 15. The existing county courts are continued, and the judges thereof in office at the adoption of this article shall hold their offices until the expiration of their respective terms. Their successors shall be chosen by the electors of the counties, for the term of six years. The county courts shall have the powers and jurisdiction they now possess, until altered by the legislature. They shall also have original jurisdiction in all cases where the defendants reside in the county and in which the damages claimed shall not exceed one thousand dollars ; and also such appellate jurisdiction as shall be provided by law, subject, however, to such provision as shall be made by law for the removal of causes into the supreme court. They shall also have such other original jurisdiction as shall, from time to time, be conferred upon them by the legislature. The county judge, with two justices of the peace, to be designated according to law, may hold courts of sessions, with such criminal jurisdiction as the legislature shall prescribe, and he shall perform such other duties as may be required by law. His salary, and the salary of the surrogate when elected as a separate officer, shall be established by law, payable out of the county treasury and shall not be diminished during his term of office. The justices of the peace shall be paid, for services in courts of sessions, a per diem allowance out of the county treasury. The county judge shall also be surrogate of his county ; but in counties having a population exceeding forty thousand, the legislature may provide for the election of a separate officer to be surrogate, whose term of office shall be the same as that of the county judge. The county judge of any county may preside at courts of sessions, or hold county courts, in any other county, except New York and Kings, when requested by the judge of such other county.⁴

§ 16. The legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county,

Local judicial officers.

¹ 53 N. Y., 450 ; 45 N. Y., 814 ; 59 Barb., 223 ; 13 Abb. Pr. R. (N. S.), 328 ; 60 N. Y., 204 ; 7 J. & S., 192 ; 3 Abb. N. C., 478 ; 7 Daly, 197 ; 19 J. & S., 119 ; 90 N. Y., 68 ; 100 N. Y., 239 ; 102 N. Y., 38 ; 103 N. Y., 377.

² 45 N. Y., 814 ; 59 Barb., 223 ; 79 N. Y., 403 ; 42 How. Pr. R., 268 ; 2 How., N. S., 502 ; 32 Hun, 441 ; 42 Hun, 273 ; 97 N. Y., 530 ; 100 N. Y., 239.

³ 53 N. Y., 450 ; 20 J. & S., 66 ; 90 N. Y., 68 ; 98 N. Y., 503 ; 100 N. Y., 239.
⁴ 53 N. Y., 450 ; 53 N. Y., 630 ; 45 N. Y., 814 ; 59 Barb., 191, 223 ; 57 Barb., 643 ; 7 Lans., 423 ; 24 Hun, 550 ; 28 Hun, 484 ; 29 Hun, 513 ; 30 Hun, 230, 502 ; 34 Hun, 604 ; 38 Hun, 633 ; 40 Hun, 563 ; 41 Hun, 596 ; 86 N. Y., 613 ; 90 N. Y., 68 ; 98 N. Y., 593 ; 100 N. Y., 241 ; 102 N. Y., 453.

⁵ As amended by vote of the people, Nov. 2, 1860. Went into effect Jan. 1, 1881.

to discharge the duties of county judge and of surrogate, in cases of their inability, or of a vacancy, and to exercise such other powers in special cases as may be provided by law.¹

Judge of court of appeals, or justice of supreme court, election or appointment of question to be submitted to people.

§ 17. The legislature shall provide for submitting to the electors of the state, at the general election in the year eighteen hundred and seventy-three, two questions, to be voted upon on separate ballots, as follows: First, "Shall the offices of chief judge and associate judge of the court of appeals, and of justice of the supreme court, be hereafter filled by appointment?"* If a majority of the votes upon the question shall be in the affirmative, the said officers shall not thereafter be elective, but, as vacancies occur, they shall be filled by appointment by the governor by and with the advice and consent of the senate; or if the senate be not in session, by the governor; but in such case, he shall nominate to the senate when next convened, and such appointment by the governor alone shall expire at the end of that session. Second, "Shall the offices of the judges, mentioned in sections twelve and fifteen of articles six of the constitution, be hereafter filled by appointment?"* If a majority of the votes upon the question shall be in the affirmative, the said officers shall not thereafter be elective, but as vacancies occur, they shall be filled in the manner in this section above provided.

Justices of the peace.

§ 18. The electors of the several towns shall, at their annual town meeting, and in such manner as the legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the peace, and judges or justices of inferior courts, not of record, and their clerks, may be removed, after due notice and an opportunity of being heard, by such courts as may be prescribed by law, for causes to be assigned in the order of removal. Justices of the peace and district court justices shall be elected in the different cities in this state, in such manner, and with such powers, and for such terms, respectively, as shall be prescribed by law; all other judicial officers in cities, whose election or appointment is not otherwise provided for in this article, shall be chosen by the electors of cities, or appointed by some local authorities thereof.²

Inferior local courts.

§ 19. Inferior local courts of civil and criminal jurisdiction may be established by the legislature; and, except as herein otherwise provided, all judicial officers shall be elected or appointed at such times, and in such manner as the legislature may direct.³

Clerks of supreme court and court of appeals.

§ 20. Clerks of the several counties shall be clerks of the supreme court, with such powers and duties as shall be prescribed by law. The clerk of the court of appeals shall keep his office at the seat of government. His compensation shall be fixed by law, and paid out of the public treasury.⁴

No judicial officer, except justice of the peace, to receive fees.

§ 21. No judicial officer, except justices of the peace, shall receive to his own use any fees or perquisites of office; nor shall any judge of the court of appeals, justice of the supreme court, or judge of a court of record in the cities of New York, Brooklyn or Buffalo, practice as an attorney or counsellor in any court of record in this state, or act as referee.

Judgments, etc., may be ordered directly to court of appeals for review.

§ 22. The legislature may authorize the judgments, decrees or decisions of any court of record of original civil jurisdiction, established in a city, to be removed from review, directly into the court of appeals.⁵

Publication of statutes to

§ 23. The legislature shall provide for the speedy publication of all statutes and also for the appointment by the justices of the supreme

¹ 100 N. Y., 241; 102 N. Y., 438.

² 53 N. Y., 450; 46 N. Y., 57; 37 N. Y., 671; 14 Abb. Pr. R. (N. S.), 419; 58 N. Y., 516, 679; 73 N. Y., 64; 29 Hun, 513; 95 N. Y., 124; 42 Hun, 273.

³ 50 N. Y., 278; 5 Hun, 310; 4 T. & C., 391; 66 N. Y., 189; 90 N. Y., 68.

⁴ 98 N. Y., 523.

⁵ 103 N. Y., 377.

* Submitted to vote of the people, November 4, 1873—pursuant to chap. 314, laws of 1873,—and determined in the negative.

court designated to hold general terms, of a reporter of the decisions of that court. All laws and judicial decisions shall be free for publication by any person.

be provided for—to be free to all.

§ 24. The first election of judges of the court of appeals, and of the three additional judges of the court of common pleas for the city and county of New York, shall take place on such day, between the first Tuesday of April and the second Tuesday in June next after the adoption of this article, as may be provided by law. The court of appeals, the commissioners of appeals, and the additional judges of the said court of common pleas, shall respectively enter upon their duties on the first Monday of July thereafter.

Judges, first election of, when to enter upon duties.

§ 25. Surrogates, justices of the peace, and local judicial officers provided for in section sixteen, in office when this article shall take effect, shall hold their respective offices until the expiration of their terms.

Local judicial officers, term of office of present incumbents.

§ 26. Courts of special sessions shall have such jurisdiction of offences of the grade of misdemeanors as may be prescribed by law.

Court of special sessions. Surrogates courts.

§ 27. For the relief of surrogates' courts, the legislature may confer upon courts of record, in any county having a population exceeding four hundred thousand, the powers and jurisdiction of surrogates, with authority to try issues of fact by jury in probate causes.

*§ 28. The court of appeals may order any of the causes, not exceeding five hundred in number, pending in that court at the time of the adoption of this provision, to be heard and determined by the commissioners of appeals, and the legislature may extend the term of service of the commissioners of appeals, not exceeding two years.†

Court of appeals may order causes to be heard by commission of appeals.

‡§ 28. (So in the original.) The legislature, at the first session thereof after the adoption of this amendment, shall provide for organizing the supreme court not more than five general terms thereof; and for the election at the general election next after the adoption of this amendment, by the electors of the judicial districts mentioned in this section, respectively, of not more than two justices of the supreme court in addition to the justices of that court now in office in the first, fifth, seventh and eighth, and not more than one justice of that court in the second, third, fourth and sixth judicial districts. The justices so elected shall be invested with their offices on the first Monday of June next after their election.¶

Legislature to organize five general terms.

ARTICLE VII.

SECTION 1. After paying the expenses of collection, superintendence and ordinary repairs, there shall be appropriated and set apart in each fiscal year out of the revenues of the state canals, in each year, commencing on the first day of June, one thousand eight hundred and forty-six, the sum of one million and three hundred thousand dollars until the first day of June, one thousand eight hundred and fifty-five, and from that time the sum of one million and seven hundred thousand dollars in each fiscal year, as a sinking fund to pay the interest and redeem the principal of that part of the state debt called the canal debt, as it existed at the time first aforesaid, and including three hundred thousand dollars then to be borrowed, until the same shall be wholly paid; and the principal and income of the said sinking fund shall be sacredly applied to that purpose.

Canal debt, sinking fund, June 1, 1846, \$1,300,000. June 1, 1855, \$1,700,000.

1 45 N. Y., 812.
 2 100 N. Y., 236.
 3 N. Y. Crim. R., 168; 29 Hun, 156; 83 N. Y., 240; 99 N. Y., 221.
 4 100 N. Y., 236.
 * Section 28, added by vote of the people, Nov. 5, 1872. Went into effect January 1, 1873.
 † Term of service of commissioners of appeals extended to July 1, 1875, by chap. 3, laws of 1873. None of the laws relating to the commission of appeals, except the provisions contained in the constitution, are included in this compilation, as that court has ceased to exist.
 ‡ Added by vote of the people, November 7, 1882. Went into effect January 1, 1883.
 ¶ For the legislation under this section, see L. 1883, ch. 329.

General fund debt, sinking fund, \$350,000; after certain period, \$1,500,000.

§ 2. After complying with the provisions of the first section of this article, there shall be appropriated and set apart out of the surplus revenues of the state canals, in each fiscal year, commencing on the first day of June, one thousand eight hundred and forty-six, the sum of three hundred and fifty thousand dollars, until the time when a sufficient sum shall have been appropriated and set apart, under the said first section, to pay the interest and extinguish the entire principal of the canal debt, and after that period, then the sum of one million and five hundred thousand dollars in each fiscal year, as a sinking fund, to pay the interest and redeem the principal of that part of the state debt called the general fund debt, including the debts for loans of the state credit to railroad companies which have failed to pay the interest thereon, and also the contingent debt on state stocks loaned to incorporated companies which have hitherto paid the interest thereon, whenever and as far as any part thereof may become a charge on the treasury or general fund, until the same shall be wholly paid; and the principal and income of the said last mentioned sinking fund shall be sacredly applied to the purpose aforesaid; and if the payment of any part of the moneys to the said sinking fund shall at any time be deferred, by reason of the priority recognized in the first section of this article, the sum so deferred, with quarterly interest thereon, at the then current rate, shall be paid to the last mentioned sinking fund, as soon as it can be done consistently with the just rights of the creditors holding said canal debt.¹

No tolls shall be imposed.

*§ 3. The first and second sections of this article having been fully complied with, no tolls shall hereafter be imposed on persons or property transported on the canals, but all boats navigating the canals, and the owners and masters thereof, shall be subject to such laws and regulations as have been or may hereafter be enacted concerning the navigation of the canals. The legislature shall annually, by equitable taxes, make provision for the expenses of the superintendence and repairs of the canals. The canal debt contracted under the section hereby amended, which, on the first day of October, eighteen hundred and eighty, amounted to eight million nine hundred and eighty-two thousand two hundred dollars, shall continue to be known as the "canal debt, under article seven, section three of the constitution;" and the sinking fund applicable to the payment thereof, together with the contributions to be made thereto, shall continue to be known as the "canal debt sinking fund," and the principal and interest of said debt shall be met as provided in the fifth section of this article. All contracts for work or materials on any canals shall be made with the person who shall offer to do or provide the same at the lowest price with adequate security for their performance.

Legislature shall annually make provision for expenses and repairs.

Sinking fund.

Contracts for work and materials.

Contractors, no extra compensation to be made to.

No extra compensation shall be made to any contractor; but if, from any unforeseen cause, the terms of any contract shall prove to be unjust and oppressive, the canal board may, upon the application of the contractor, cancel such contract.²

Loans to incorporated companies not to be released or compromised.

§ 4. The claims of the state against any incorporated company to pay the interest and redeem the principal of the stock of the state loaned or advanced to such company, shall be fairly enforced, and not released or compromised; and the moneys arising from such claim shall be set apart,

¹ 26 Hun, 336; 92 N. Y., 338.

² 65 N. Y., 367; 27 N. Y., 380; 7 N. E., 9; 46 Barb., 266; 19 Barb., 291; 3 Lans., 401; 4 Lans., 272;

1 N. Y. S. C. R. (T. & C., 14; id., 311.

³ Section 3, as amended by vote of the people, November 7, 1882. Went into effect January 1, 1883.

and applied as part of the sinking fund provided in the second section of this article. But the time limited for the fulfillment of any condition of any release or compromise heretofore made or provided for, may be extended by law.

* § 5. There shall annually be imposed and levied a tax which shall be sufficient to pay the interest and extinguish the principal of the canal debt mentioned in the third section of this article, as the same shall become due and payable, and the proceeds of such tax shall, in each fiscal year, be appropriated and set apart for the sinking fund constituted for the payment of the principal and the interest of the aforesaid debt. But the legislature may, in its discretion, impose for the fiscal year, beginning on the first day of October, eighteen hundred and eighty-three, a state tax on each dollar of the valuation of the property in this state which may by law then be subject to taxation, sufficient, with the accumulations of the sinking fund applicable thereto, to pay in full both the principal and interest of the canal debt before mentioned, and the proceeds of such tax shall be appropriated and set apart for the sinking fund constituted for the payment of the principal and the interest of said debt. In the event of such action by the legislature, then the legislature shall, under the law directing the assessment and levy of such tax, make such provision for the retirement of the canal debt as it shall deem equitable and just to the creditors of the state.

Legislature shall annually impose and levy tax for payment of principal and interest of debt.

* § 6. The legislature shall not sell, lease, or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal, the Cayuga and Seneca canal, or the Black River canal, but they shall remain the property of the state and under its management forever. All funds that may be derived from any lease, sale, or other disposition of any canal shall be applied in payment of the canal debt mentioned in the third section of this article.¹

Certain canals of the state not to be leased or sold. Funds from leases or sale, how applied.

§ 7. The legislature shall never sell or dispose of the salt springs belonging to this state. The lands contiguous thereto and which may be necessary and convenient for the use of the salt springs, may be sold by authority of law and under the direction of the commissioners of the land office, for the purpose of investing the moneys arising therefrom in other lands alike convenient; but by such sale and purchase the aggregate quantity of these lands shall not be diminished.²

Salt springs.

§ 8. No moneys shall ever be paid out of the treasury of this state, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.³

Appropriation bills.

§ 9. The credit of the state shall not, in any manner, be given or loaned to, or in aid of any individual, association or corporation.

State credit not to be loaned.

¹ 5 Lans., 397; 13 Hun, 17; 45 N. Y., 812; 43 Hun, 102.

² 12 N. Y., 603; 6 N. Y., 74; 7 Barb, 699.

³ 55 N. Y., 398; 8 N. Y., 817; 3 N. Y., 294; 3 Denio, 331; 101 N. Y., 682; 106 N. Y., 104.

* As amended by vote of the people, November 7, 1882. Went into effect January 1, 1883.

Power to contract debts limited.

§ 10. The state may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts; but such debts, direct and contingent, singly or in the aggregate, shall not, at any time, exceed one million of dollars; and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained, or to repay the debt so contracted, and to no other purpose whatever.¹

Debts to repel invasion, &c., may be contracted.

§ 11. In addition to the above limited power to contract debts, the state may contract debts to repel invasion, suppress insurrection, or defend the state in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

Limitation of the legislative power in the creation of debts.

§ 12. Except the debts specified in the tenth and eleventh sections of this article, no debts shall be hereafter contracted by or on behalf of this state, unless such debt shall be authorized by a law, for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within eighteen years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it, at such election. On the final passage of such bill in either house of the legislature, the question shall be taken by ayes and noes, to be duly entered on the journals thereof, and shall be: "Shall this bill pass, and ought the same to receive the sanction of the people?"

The legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability which may have been contracted, in pursuance of such law, shall remain in force and be irrevocable, and be annually collected, until the proceeds thereof shall have made the provision hereinbefore specified to pay and discharge the interest and principal of such debt and liability. The money arising from any loan or stock creating such debt or liability shall be applied to the work or object specified in the act authorizing such debt or liability, or for the repayment of such debt or liability, and for no other purpose whatever. No such law shall be submitted to be voted on, within three months after its passage, or at any general election, when any other law, or any bill, or any amendment to the constitution shall be submitted to be voted for or against.²

Sinking funds to be separately kept and safely invested.

*§ 13. The sinking funds provided for the payment of interest and the extinguishment of the principal of the debts of the state shall be separately kept and safely invested, and neither of them shall be appropriated or used in any manner other than for the specific purpose for which it shall have been provided.³

Claims barred by lapse of time—limitation of existing claims.

*§ 14. Neither the legislature, canal board, canal appraisers, nor any person or persons acting in behalf of the state, shall audit, allow, or pay any claim which, as between citizens of the state, would be barred by lapse of time. The limitation of existing claims shall begin to run from the adoption of this section; but this provision shall not be construed to revive claims already barred by existing statutes, nor to repeal any statute fixing the time within which claims shall be presented or allowed, nor

¹ 52 N. Y., 563; 26 Hun, 396.

² 46 N. Y., 406; 52 N. Y., 556.

³ 52 N. Y., 563; 3 Abb. Ct. Ap. Dec., 548; 47 How. Pr. R., 510; 3 N. Y. S. C. R. (T. & C.), 241; 4 Id., 378; 92 N. Y. 463.

* As amended by vote of the people, Nov. 3, 1874. Went into effect Jan. 1, 1875.

shall it extend to any claims duly presented within the time allowed by law, and prosecuted with due diligence from the time of such presentment. But if the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed.¹

ARTICLE VIII.

SECTION 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.²

Corporations, how created.

§ 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.³

Debts of corporations.

§ 3. The term corporations as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.⁴

Corporations defined.

*§ 4. The legislature shall, by general law, conform all charters of savings banks, or institutions for savings, to a uniformity of powers, rights and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

Charters for savings banks and banking purposes.

§ 5. The legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any person, association or corporation issuing bank notes of any description.

Specie payments.

§ 6. The legislature shall provide by law for the registry of all bills or notes, issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.⁵

Registry of bills or notes.

§ 7. The stockholders in every corporation and joint-stock association for banking purposes issuing bank notes or any kind of paper credits to circulate as money, after the first day of January, one thousand eight hundred and fifty, shall be individually responsible to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind, contracted after the said first day of January, one thousand eight hundred and fifty.⁶

Individual responsibility of stockholders.

§ 8. In case of the insolvency of any bank or banking association, the bill-holders thereof shall be entitled to preference in payment, over all other creditors of such bank or association.

Insolvency of banks, preference.

§ 9. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning

Legislature to provide for the incorporation of cities and villages, and to define powers thereof in certain cases.

¹ 28 How. Pr. R., 353; 31 N. Y., 196; 17 N. Y., 235; 19 N. Y., 116; 13 N. Y., 143; 8 N. Y., 241; id., 317; 59 N. Y., 491.

² 40 N. Y., 453; 26 N. Y., 467; 26 Barb., 667; 20 Barb., 119; 16 Barb., 183; 15 Barb., 657; 70 N. Y., 227; 37 Hun, 493; 40 Hun, 31.

³ 36 Hun, 627.

⁴ 14 Barb., 405, 559; 1 Barb. Ch. R., 547; 6 Paige, 559; 31 Hun, 516; 32 Hun, 317.

⁵ 44 Hun, 563.

⁶ 27 N. Y., 333; 18 N. Y., 199; 24 W., 473; 8 Cow., 337; 39 Barb., 366; 2 Abb. Ct. Ap. Dec., 369; 99 N. Y., 192.

⁷ As amended by vote of the people, November 3, 1874. Went into effect January 1, 1875.

their credit, so as to prevent abuses in assessments, and in contracting debt by such municipal corporations.¹

The credit
or money
of the state
not to be
given or
loaned.

*§ 10. Neither the credit nor the money of the state shall be given or loaned to or in aid of any association, corporation or private undertaking. This section shall not, however, prevent the legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper. Nor shall it apply to any fund or property now held, or which may hereafter be held by the state for educational purposes.²

Counties,
cities,
towns and
villages not
to give
money,
&c. or loan,
&c., credit.
Their
power to
contract
debts
limited.

*†§ 11. No county, city, town or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become, directly or indirectly the owner of stock in or bonds of any association or corporation, nor shall any such county, city, town or village be allowed to incur any indebtedness, except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor, as may be authorized by law.

No county containing a city of over one hundred thousand inhabitants, or any such city, shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No such county or such city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water, but the term of the bonds issued to provide for the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.³

ARTICLE IX.

Common
school,
literature
and United
States de-
posit funds.

SECTION 1. The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate. The revenue of the said common school fund shall be applied to the support of common schools; the revenue of the said literature fund shall be applied to the support of academies, and

¹ 26 N. Y., 467; 18 N. Y., 38; 15 N. Y., 297, 532; 5 Hill, 121; 55 N. Y., 50; 24 Barb., 446; 10 Wend., 547; 5 Hun, 485; 29 Hun, 391; 82 N. Y., 621; 90 N. Y., 68; 93 N. Y., 313.

² 98 N. Y., 137.

³ 78 N. Y., 475; 5 Hun, 475; 39 Hun, 570; 40 Hun, 190; 96 N. Y., 432; 99 N. Y., 586; 101 N. Y., 490; 102 N. Y., 313.

* Section 10 and 11 added by vote of the people, Nov. 3, 1874. Went into effect Jan. 1, 1875.

† Section 11 thus amended by vote of the people, Nov. 4, 1884. Went into effect Jan. 1, 1885.

the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common school fund.¹

ARTICLE X.

SECTION 1. Sheriffs, clerks of counties, including the register and clerk of the city and county of New York, coroners, and district attorneys, shall be chosen, by the electors of the respective counties, once in every three years and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of their offices. They may be required by law to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff. The governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defence.²

Sheriffs, clerks of counties, register and clerk of N. York, coroners and district attorneys—governor may remove.

§ 2. All county officers whose election or appointment is not provided for, by this constitution, shall be elected by the electors of the respective counties or appointed by the boards of supervisors, or other county authorities, as the legislature shall direct. All city, town, and village officers, whose election or appointment is not provided for by this constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the legislature may direct.³

Officers, how chosen or appointed.

§ 3. When the duration of any office is not provided by this constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment.⁴

Duration of office.

§ 4. The time of electing all officers named in this article shall be prescribed by law.

Time of election.

§ 5. The legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.⁵

Vacancies in office, how filled.

§ 6. The political year and legislative term shall begin on the first day of January, and the legislature shall, every year, assemble on the first Tuesday in January, unless a different day shall be appointed by law.

Political year.

§ 7. Provision shall be made by law for the removal for misconduct or malversation in office of all officers (except judicial) whose powers and duties are not local or legislative, and who shall be elected at general elections, and also for supplying vacancies created by such removal.⁶

Removal from office.

§ 8. The legislature may declare the cases in which any office shall be deemed vacant when no provision is made for that purpose in this constitution.⁷

When office deemed vacant.

*§ 9. No officer whose salary is fixed by the constitution shall receive any additional compensation. Each of the other state officers named in

Compensation of certain officers.

¹ 42 N. Y., 310; 13 Barb., 400; 40 How. Pr. R., 252.

² 2 Wend., 266; 11 Wend., 511; 29 Hun, 175; 102 N. Y., 441.

³ 55 N. Y., 50; 52 N. Y., 83, 374; 50 N. Y., 459; 41 N. Y., 135; 37 N. Y., 428; 32 N. Y., 377; 15 N. Y., 532; 57 Barb., 297; 54 Barb., 483; 49 Barb., 12; 25 Barb., 532; 7 Barb., 80; 2 Barb., 517; 47 How. Pr. R., 312; 62 N. Y., 567; 17 Hun, 559; 69 N. Y., 362; 77 N. Y., 542; 78 N. Y., 356; 20 J. & S. 72; 27 Hun, 82; 41 Hun, 288; 99 N. Y., 569; 106 N. Y., 568.

⁴ 52 N. Y., 83; 46 N. Y., 61; 34 N. Y., 398; 30 Hun, 438; 92 N. Y., 191; 94 N. Y., 591.

⁵ 46 N. Y., 57; 45 N. Y., 816; 24 Wend., 215; 18 Hun, 311; 78 N. Y., 356; 40 Hun, 364; 102 N. Y., 439.

⁶ 45 N. Y., 816.

⁷ 45 N. Y., 816.

* Section 9 added by vote of the people, November 3, 1874. Went into effect January 1, 1875.

the constitution shall, during his continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed; nor shall he receive to his use, any fees or perquisites of office or other compensation.¹

ARTICLE XI.

Militia. SECTION 1. The militia of this state shall, at all times hereafter, be armed and disciplined and in readiness for service; but all such inhabitants of this state of any religious denomination whatever as from scruples of conscience may be averse to bearing arms, shall be excused therefrom upon such conditions as shall be prescribed by law.²

Manner of choosing or appointing militia officers. § 2. Militia officers shall be chosen, or appointed, as follows: Captains, subalterns, and non-commissioned officers shall be chosen by the written votes of the members of their respective companies. Field officers of regiments and separate battalions by the written votes of the commissioned officers of the respective regiments and separate battalions; brigadier-generals and brigade inspectors by the field officers of their respective brigades; major-generals, brigadier-generals and commanding officers of regiments or separate battalions, shall appoint the staff officers to their respective divisions, brigades, regiments or separate battalions.³

Officers to be appointed by governor and senate. § 3. The governor shall nominate, and with the consent of the senate, appoint all major-generals and the commissary-general. The adjutant-general and other chiefs of staff departments, and the aids-de-camp of the commander-in-chief, shall be appointed by the governor, and their commissions shall expire with the time for which the governor shall have been elected. The commissary-general shall hold his office for two years. He shall give security for the faithful execution of the duties of his office in such manner and amount as shall be prescribed by law.⁴

Commissary general.

Election of militia officers. § 4. The legislature shall, by law, direct the time and manner of electing militia officers, and of certifying their elections to the governor.

Officers, how commissioned. § 5. The commissioned officers of the militia shall be commissioned by the governor; and no commissioned officer shall be removed from office, unless by the senate on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, pursuant to law. The present officers of the militia shall hold their commissions subject to removal, as before provided.

Election of militia officers may be abolished. § 6. In case the mode of election and appointment of militia officers hereby directed, shall not be found conducive to the improvement of the militia, the legislature may abolish the same, and provide by law for their appointment and removal, if two-thirds of the members present in each house shall concur therein.

*ARTICLE XII.

Oath of office prescribed. SECTION 1. Members of the legislature (and all officers, executive and judicial, except such inferior officers as shall be by law exempted), shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of _____, according to the best of my ability;" and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and sub-

¹ 98 N. Y., 593.

² 50 N. Y., 290; 45 N. Y., 814; 6 Lans., 44.

³ 40 N. Y., 114.

⁴ 40 N. Y., 114; 53 Barb., 13.

* As amended by vote of the people, November 3, 1874. Went into effect January 1, 1875.

scribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

“And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote,” and no other oath, declaration or test, shall be required as a qualification for any office of public trust.¹

ARTICLE XIII.

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate and assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election of senators, and shall be published for three months previous to the time of making such choice, and if in the legislature so next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the legislature, voting thereon, such amendment or amendments shall become part of the constitution.

Amendments.

* § 2. At the general election to be held in the year eighteen hundred and sixty-six, and in each twentieth year thereafter, and also at such time as the legislature may by law provide, the question, “Shall there be a convention to revise the constitution, and amend the same?” shall be decided by the electors qualified to vote for members of the legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the legislature at its next session shall provide by law for the election of delegates to such convention.²

Future conventions, how called.

ARTICLE XIV.

SECTION 1. The first election of senators and members of the assembly, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and forty-seven. The senators and members of assembly who may be in office on the first day of January, one thousand eight hundred and forty-seven, shall hold their offices until and including the thirty-first day of December following, and no longer.

Election, term of office of senators and members of assembly.

§ 2. The first election of governor and lieutenant-governor under this constitution shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and forty-eight; and the governor and lieutenant-governor in office when this constitution shall take effect, shall hold their respective offices until and including the thirty-first day of December of that year.

First election of governor and lieutenant-governor, when.

§ 3. The secretary of state, comptroller, treasurer, attorney-general, district-attorneys, surveyor-general, canal commissioners and inspectors

State officers, and others, to

¹ 37 Hun., 44.
² 39 N. Y., 426.

* A convention, held in 1867, pursuant to this provision, proposed a new constitution, which was voted upon in parts, in November, 1869, and rejected, except article six (sections 1 to 27 inclusive).

remain in office till December 31, 1847.

of state prisons, in office when this constitution shall take effect, shall hold their respective offices until and including the thirty-first day of December, one thousand eight hundred and forty-seven, and no longer.

First election of judicial officers, when.

§ 4. The first election of judges and clerk of the court of appeals, justices of the supreme court, and county judges, shall take place at such time between the first Tuesday of April and the second Tuesday of June, one thousand eight hundred and forty-seven, as may be prescribed by law. The said courts shall respectively enter upon their duties on the first Monday of July, next thereafter; but the term of office of said judges, clerk and justices, as declared by this constitution, shall be deemed to commence on the first day of January, one thousand eight hundred and forty-eight.

Jurisdiction of pending suits.

§ 5. On the first Monday of July, one thousand eight hundred and forty-seven, jurisdiction of all suits and proceedings then pending in the present supreme court and court of chancery, and all suits and proceedings originally commenced and then pending in any court of common pleas (except in the city and county of New York), shall become vested in the supreme court hereby established. Proceedings pending in courts of common pleas, and in suits originally commenced in justices' courts, shall be transferred to the county courts provided for in this constitution, in such manner and form and under such regulations as shall be provided by law. The courts of oyer and terminer hereby established shall, in their respective counties, have jurisdiction on and after the day last mentioned of all indictments and proceedings then pending in the present courts of oyer and terminer, and also of all indictments and proceedings then pending in the present courts of general sessions of the peace, except in the city of New York, and except in cases of which the courts of sessions hereby established may lawfully take cognizance; and of such indictments and proceedings the courts of sessions hereby established shall have jurisdiction on and after the day last mentioned.¹

Chancellor and supreme court.

§ 6. The chancellor and the present supreme court shall, respectively, have power to hear and determine any of such suits and proceedings ready on the first Monday of July, one thousand eight hundred and forty-seven, for hearing or decision, and shall, for their services therein, be entitled to their present rates of compensation until the first day of July, one thousand eight hundred and forty-eight, or until all such suits and proceedings shall be sooner heard and determined. Masters in chancery may continue to exercise the functions of their office in the court of chancery, so long as the chancellor shall continue to exercise the functions of his office under the provisions of this constitution. And the supreme court hereby established shall also have power to hear and determine such of said suits and proceedings as may be prescribed by law.

Masters in chancery.

Vacancy in office of chancellor or justice of supreme court, how filled.

§ 7. In case any vacancy shall occur in the office of chancellor or justice of the present supreme court, previously to the first day of July, one thousand eight hundred and forty-eight, the governor may nominate, and, by and with the advice and consent of the senate, appoint a proper person to fill such vacancy. Any judge of the court of appeals or justice of the supreme court elected under this constitution may receive and hold such appointment.

Offices abolished.

§ 8. The offices of chancellor, justice of the existing supreme court, circuit judge, vice-chancellor, assistant vice-chancellor, judge of the existing county courts of each county, supreme court commissioner, master in chancery, examiner in chancery, and surrogate (except as herein otherwise provided), are abolished, from and after the first Monday of July, one thousand eight hundred and forty-seven.²

¹ 45 N. Y., 815; 41 N. Y., 159; 59 Barb., 191; 44 Barb., 443; 1 Barb., 643.

² 3 Barb., 332.

§ 9. The chancellor, the justices of the present supreme court, and the circuit judges, are hereby declared to be severally eligible to any office at the first election under this constitution.

Chancellor and justices of present supreme court, eligible.

§ 10. Sheriffs, clerks of counties (including the register and clerk of the city and county of New York), and justices of the peace and coroners, in office when this constitution shall take effect, shall hold their respective offices until the expiration of the term for which they were respectively elected.

Officers to hold until expiration of term.

§ 11. Judicial officers in office when this constitution shall take effect, may continue to receive such fees and perquisites of office as are now authorized by law, until the first day of July, one thousand eight hundred and forty-seven, notwithstanding the provisions of the twentieth section of the sixth article of this constitution.

Judicial officers may receive fees.

§ 12. All local courts established in any city or village, including the superior court, common pleas, sessions and surrogates' courts of the city and county of New York, shall remain, until otherwise directed by the legislature, with their present powers and jurisdictions; and the judges of such courts and any clerks thereof in office on the first day of January, one thousand eight hundred and forty-seven, shall continue in office until the expiration of their terms of office, or until the legislature shall otherwise direct.

Local courts to remain, etc.

§ 13. This constitution shall be in force from and including the first day of January, one thousand eight hundred and forty-seven, except as is herein otherwise provided.

When constitution goes into operation.

***ARTICLE XV.**

SECTION 1. Any person holding office under the laws of this state, who, except in payment of his legal salary, fees or perquisites, shall receive, or consent to receive, directly or indirectly, any thing of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offence of bribery.

Bribery and official corruption.

§ 2. Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such bribe. Any person who shall offer or promise a bribe, if it be rejected by the officer to whom it is tendered, shall be deemed guilty of an attempt to bribe, which is hereby declared to be a felony.

The same subject.

§ 3. Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor.

Person offering or receiving bribe may be witness.

§ 4. Any district attorney who shall fail faithfully to prosecute a person charged with the violation in his county of any provision of this article which may come to his knowledge, shall be removed from office by the governor, after due notice and an opportunity of being heard in his defence. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this state, within such county, or of receiving bribes by any such person in said county, shall be a charge against the state, and their payment by the state shall be provided for by law.

District attorney may be removed for failure to prosecute violations. Expenses of prosecution, how chargeable.

¹ 13 Abb. Pr. R. (N. S.), 328; 90 N. Y., 68; 103 N. Y., 42.

² 39 Hun, 442.

* Article 15, added by vote of the people, Nov. 3, 1874. Went into effect January 1, 1876.

* ARTICLE XVI.

Amend-
ments,
when to
take effect.

SECTION 1. All amendments to the constitution shall be in force from and including the first day of January succeeding the election at which the same were adopted, except when otherwise provided by such amendments.

Done, in convention, at the capitol in the city of Albany, the ninth day of October, in the year one thousand eight hundred and forty-six, and of the independence of the United States of America the seventy-first.

In witness whereof, we have hereunto subscribed our names.

JOHN TRACY, *President*

and delegate from the county of Chenango.

JAMES F. STARBUCK,
H. W. STRONG,
FR. SEGER,

} *Secretaries.*

COURT OF APPEALS, SECOND DIVISION.

† AMENDMENT TO ARTICLE 6, SECTION 6.

Whenever, and as often as there shall be such an accumulation of causes on the calendar of the court of appeals that the public interests require a more speedy disposition thereof, the said court may certify such fact to the governor, who shall thereupon designate seven justices of the supreme court to act as associate judges, for the time being, of the court of appeals, and to form a second division of said court, and who shall act as such until all the causes upon the said calendar at the time of the making of such certificate are determined, or the judges of said court, elected as such, shall certify to the governor that said causes are substantially disposed of, and on receiving such certificate, the governor may declare said second division dissolved, and the designation of justices to serve thereon shall thereupon expire. The second division of said court hereby authorized to be constituted, shall be competent to determine any causes on said calendar which may be assigned to such division by the court composed of judges elected to serve in the court of appeals, and that court may at any time before judgment direct any of the causes so assigned to be restored to its calendar for hearing and decision. The rules of practice in both divisions shall be the same. Five members of the court shall be sufficient to form a quorum for said second division, and the concurrence of four shall be necessary to a decision. The judges composing said second division shall appoint from their number a chief judge of such division, and the governor may from time to time, when in his judgment the public interests may require, change the designation of any justice of the supreme court to serve in such division, and may fill any vacancy occurring therein, by designating any justice of the supreme court to fill such vacancy. Said second division may appoint and remove a crier and such attendants as may be necessary. The judges composing said second division shall not, during the time of their service therein, exercise any of the functions of justices of the supreme court, nor receive any salary or compensation as such justices, but in lieu thereof shall during such term of service receive the same compensation as the associate judges of the court of appeals. They shall have power to appoint the times and places of their sessions, within this state, and the clerk and reporter of the court of appeals shall be clerk and reporter of said second division.†

* Article 16, added by vote of the people, November 3, 1874. Went into effect January 1, 1875.
† Added to article 6, section 6, *ante*, p. 95, by vote of the people, November 6, 1888. Went into effect January 1, 1889.

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TO THE

CONSTITUTION OF THE STATE OF NEW-YORK.

IN FORCE JANUARY 1st, 1889.

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ACTS RELATING TO THE REVISED STATUTES.

L. 1828, Chap. 20.

SECOND SESSION.

AN ACT concerning the Revised Statutes.

SECTION 1. The act passed on the fourth day of December, one thousand eight hundred and twenty-seven, entitled "An act concerning the territorial limits and divisions, the civil polity, and the internal administration of this state," consisting of twenty chapters, shall be known and distinguished as the first part of the Revised Statutes. First part of the Revised Statutes.

§ 2. The act passed at the present meeting of the legislature entitled "An act relative to the acquisition, the enjoyment and the transmission of property, real and personal; to the domestic relations, and other matters connected with private rights," consisting of eight chapters, the first of which was passed at the present meeting of the legislature, and the other chapters were passed on the fourth day of December, one thousand eight hundred and twenty-seven, shall be known and distinguished as the second part of the Revised Statutes. Second part.

§ 3. The act passed at the present meeting of the legislature, entitled "An act concerning courts and ministers of justice, and proceedings in civil cases," consisting of ten chapters, shall be known and distinguished as the third part of the Revised Statutes. Third part.

§ 4. The act passed at the present meeting of the legislature, entitled "An act concerning crimes and punishments; proceedings in criminal cases; and prison discipline," consisting of three chapters, shall be known and distinguished as the fourth part of the Revised Statutes. Fourth part.

§ 5. The following chapters and parts of chapters, of the said first part of the Revised Statutes, as originally passed, are declared to have commenced and taken effect on the first day of January, one thousand eight hundred and twenty-eight, viz.: Chapters which took effect in January, 1828.

1. Chapter six, entitled "Of elections, other than for militia and town officers:"

2. Chapter eight, entitled "Of the duties of the executive officers of the state, and of various matters connected with their respective departments:"

3. Chapter nine, entitled "Of the funds, revenue, expenditures and property of the state, and the administration thereof," except section one hundred and eighty-six, of the ninth title thereof, originally passed as section one hundred and eighty-one, which section shall take effect on the first day of January, one thousand eight hundred and twenty-nine; and the forfeiture therein mentioned, shall not take effect until six months after the said section shall be in force as a law.

4. Chapter ten, entitled "Of the militia and the public defence."

5. Chapter thirteen, entitled "Of the assessment and collection of taxes."

6. Chapter fourteen, entitled "Of the public health:"

7. The second title of chapter fifteen, entitled "Of public instruction," which title relates to the common schools:

8. Chapter sixteen, entitled "Of highways, bridges and ferries."

9. Chapter eighteen, entitled "Of incorporations."

Ib., May,
1833.

§ 6. The seventeenth chapter of the said first part of the Revised Statutes, entitled "Of the regulation of trade in certain cases," as the same was originally passed, is declared to have commenced and taken effect on the first day of May, one thousand eight hundred and twenty-eight.

Additions
and altera-
tions.

§ 7. The additions and alterations, in the chapters enumerated in the two preceding sections, made in pursuance of acts of the legislature, are declared to have taken effect at the several times when the statutes directing such additions and alterations, were respectively passed.

Chapters to
take effect
in January,
1830.

§ 8. The remaining chapters and parts of chapters of the said Revised Statutes, not specified in the three last preceding sections, and respecting the commencement of which no direction is hereinbefore given, shall severally commence and take effect as laws, on the first day of January, one thousand eight hundred and thirty.

Construc-
tion of term
"laws now
in force."

§ 9. The term "laws now in force," whenever it occurs in the Revised Statutes, shall be construed to mean the statutes and other laws in force immediately previous to the final passage of the chapter containing such term.

Ib., terms
"hereto-
fore" and
"here-
after."

§ 10. Whenever the term "heretofore" occurs in any chapter or title of the Revised Statutes, it shall be construed to mean any time previous to the day when such chapter or title shall commence and take effect; and whenever the term "hereafter" occurs, it shall be construed to mean the time after such chapter or title shall commence and take effect.

Ib., plural
words, &c.

§ 11. Whenever, in the Revised Statutes, or in any other statute, words importing the plural number are used in describing or referring to any matters, parties, or persons, any single matter, party, or person shall be deemed to be included, although distributive words may not be used; and when any subject, matter, party, or person is described or referred to by words importing the singular number or the masculine gender, several matters and persons, and females as well as males, and bodies corporate as well as individuals, shall be deemed to be included, and these rules of construction shall apply in all cases, unless it be otherwise specially provided, or unless there be something in the subject or context repugnant to such construction.

Ib., repug-
nant pro-
visions, &c.

§ 12. For the purposes of construction, the said Revised Statutes shall be deemed to have been passed on the same day, notwithstanding they may have passed or taken effect at different times; but, if any provisions in the different parts or chapters are repugnant to each other, that which shall be the last in the order hereinbefore declared shall prevail, and so much of any prior provision as is inconsistent with such last provision shall be deemed repealed thereby.

Revised
Statutes to
be cer-
tified.

§ 13. When the printing of the Revised Statutes shall be completed, the revisers, or any two of them, shall certify the same to have been examined and compared by them with the original acts, and with the acts amending such originals; and shall deposit a copy so certified in the office of the secretary of state, which shall be conclusive evidence of such statutes.

Certificate,
how to be
published.

§ 14. Such certificate shall be printed in each copy of the Revised Statutes published under the direction of the revisers; and every copy so printed by the printers employed for that purpose, in which such certificate shall be inserted, may be read in evidence in all courts of justice, and in all proceedings before any officer, board or body in this state.

[Sections 15-31 amend, or relate to printing, etc., the Revised Statutes.]

§ 32. This act shall be published with, and as a part of, the Revised Statutes.

This act how published.

[Section 33 is omitted as temporary.]

L. 1828, Chap. 21.

AN ACT to repeal certain acts and parts of acts.

SECTION 1. From and after the thirty-first day of December, in the year one thousand eight hundred and twenty-nine, the following acts and parts of acts, heretofore passed by the legislature of this state, shall be repealed, viz.:

Certain statutes and parts of statutes repealed from and after the 31st Dec., 1829.

[Here follows an enumeration of the statutes and parts of statutes repealed.]

§ 2. Nothing herein contained, shall be construed to repeal any statute consolidated and published in the Revised Statutes; nor any act of the legislature passed since the ninth day of September, one thousand eight hundred and twenty-eight, unless such act be consolidated and re-enacted in the said Revised Statutes.*

Nothing in this act to be construed as repealing Revised Statutes, &c.

§ 3. None of the statutes of England or Great Britain shall be considered as laws of this state; nor shall they be deemed to have had any force or effect in this state, since the first day of May, in the year one thousand seven hundred and eighty-eight.

Statutes of England and Great Britain, not in force.

§ 4. No statute passed by the government of the late colony of New-York, shall be considered as a law of this state.

Nor statutes of colony of New York. Saving clause, as to acts done, rights accrued, &c.

§ 5. The repeal of any statutory provision by this act, shall not affect any act done, or right accrued or established, or any proceeding, suit, or prosecution, had or commenced in any civil case, previous to the time when such repeal shall take effect; but every such act, right and proceeding, shall remain as valid and effectual, as if the provision so repealed had remained in force.

§ 6. No offence committed, and no penalty or forfeiture incurred, previous to the time when any statutory provision shall be repealed, shall be affected by such repeal; except that where any punishment, forfeiture, or penalty shall have been mitigated by the provisions of the Revised Statutes, such provisions shall apply to and control any judgment to be pronounced, after the said statutes shall take effect, for any offence committed before that time.

Ib., as to offences committed or penalties incurred.

§ 7. No prosecution for any offence, or for the recovery of any penalty or forfeiture, pending at the time any statutory provision shall be repealed, shall be affected by such repeal; but the same shall proceed in all respects, as if such provision had not been repealed; except that all such proceedings had after the time when the Revised Statutes take effect, shall be conducted according to the provisions of the said statutes, and shall be in all respects subject to the said provisions.

Ib., as to prosecutions for offences or penalties.

§ 8. All statutes and parts of statutes which were repealed or abrogated by, or were repugnant to, any law hereby repealed, and which have not been re-enacted and consolidated in the Revised Statutes, shall continue to be so repealed, and shall be deemed abrogated.

Statutes heretofore repealed to continue so repealed.

§ 9. The repeal by this act, of any statute or part of a statute heretofore repealed, shall not be construed as a declaration or implication that such statute or part of a statute has been in force at any time subsequent to such first appeal.

Though repealed by this act.

* The statutes spoken of in the first clause of this section as "published in the Revised Statutes," are those portions of the first part which took effect on the 1st of January and 1st of May, 1828, and which were published by the state printer in December, 1827.

Where a statute not repealed refers to a repealed statute.

§ 10. Where any statute not hereby repealed, refers to and adopts any statute or part of a statute which is herein repealed, the statute or part of a statute so referred to and adopted, shall not be deemed repealed by the provisions of this act, but shall be in force so far only as the same shall have been so adopted, and for no other purpose, and subject to the provisions of the two next sections.

Ib., where the statute so referred to, has been revised.

§ 11. But if the statute or part of a statute so referred to and adopted, shall have been revised and consolidated in the Revised Statutes, all provisions contained therein repugnant to, or inconsistent with those of the said Revised Statutes, shall be deemed repealed at the time specified in this act; and every such provision so referred to and adopted, which shall be modified by the Revised Statutes, shall be deemed to be so modified in respect to any use or purpose, for which such provision is herein declared to be in force, from and after the time when the Revised Statutes shall take effect.

Ib., where a rule of law is referred to which has been abrogated.

§ 12. Where any statute or part of a statute, which is not hereby repealed, refers to and adopts any provision or rule of law which is abrogated or modified by the Revised Statutes, such provision or rule shall be deemed to be so abrogated or modified, as the case may be, as well in respect to such statute or part of a statute not repealed, as otherwise, from and after the time when the Revised Statutes shall take effect.

Certain provisions in former acts repealed.

§ 13. The seventh section of the "act concerning the Revised Statutes, passed at the present meeting of the legislature," passed December 4, 1827, is hereby repealed; together with so much of the said act, as declares that the chapters of the first and second parts of the Revised Statutes therein specified, shall commence and take effect on the first day of January, one thousand eight hundred and twenty-nine.

Appointments made under acts repealed, not to be affected.

§ 14. The repeal by this act of any statutory provision, which is consolidated and re-enacted in the Revised Statutes, by virtue of which any appointment shall have been made, or any office is or shall be held, shall not be construed to vacate such office, or in any way affect such appointment; but the said appointments shall continue, and the said offices shall be held subject to the provisions of law in force after the repeal of such statutory provision.

Provision as to offices abolished by such repeal.

§ 15. But where any office is abolished by the repeal of any act, and such act is not consolidated and re-enacted in the Revised Statutes, such office shall cease at the time such repeal shall take effect.

L. 1830, Chap. 259.

AN ACT relative to the printing of the Revised Statutes.

Revised Statutes may be printed. Certificate of secretary of state.

SECTION 1. Any person or persons residing in the state of New-York may print and publish the whole or any part of the Revised Statutes of this state; but to entitle any copy of a law so published to be read in evidence, there shall be contained in the same book or pamphlet a printed certificate of the secretary of state, or of two of the revisers, that such copy is a correct transcript of the text of the Revised Statutes, as published, except such typographical errors in the original as may be corrected in such copy, and except such parts as shall have been altered by acts of the legislature; and that with respect to such parts it conforms to the acts by which such alterations shall have been made.

Paging to be preserved.

§ 2. The editions to be printed under the provisions of this act shall be paged in conformity to the first edition published under the authority of this state.

REVISED STATUTES
OF THE
STATE OF NEW YORK.

PART I.

AN ACT concerning the territorial limits and divisions, the civil polity, and the internal administration of this state.

WHEREAS it is expedient that the several statutes of this state, relating to its territorial limits and divisions, its civil polity, and its internal administration, should be consolidated and arranged in appropriate chapters, titles, and articles; that the language thereof should be simplified; and that omissions and other defects should be supplied and amended: Therefore,

The People of the State of New York, represented in Senate and Assembly, do declare and enact as follows:

CHAPTER I.

OF THE BOUNDARIES OF THE STATE AND ITS TERRITORIAL JURISDICTION.

TITLE I.—OF THE BOUNDARIES OF THE STATE.

TITLE II.—OF THE SOVEREIGNTY AND JURISDICTION OF THE STATE.

[Supplementary Title.

TITLE 2^A.—OF THE ARMS OF THE STATE.]

TITLE III.—OF THE PLACES CEDED TO THE UNITED STATES.

TITLE I.

Of the Boundaries of the State.

SEC. 1. Description of the boundaries of the state.

SECTION 1. It being deemed useful for the information of the citizens and officers of this state, that its boundaries, so far as its jurisdiction is now asserted, should be declared, it is therefore declared, that the state of New York is bounded as follows: Beginning at Lyon's point in the mouth of a brook or river called Byram river, where it falls into Long Island sound, and running thence up

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Eastern.

along said river to a rock at the ancient road or wading place in said river, which rock bears north twelve degrees and forty-five minutes east, five hundred and fifty rods from said point; then north twenty-three degrees and forty-five minutes west, two thousand two hundred and ninety-two rods; then east-north-east thirteen miles and sixty-four rods, which lines were established in the year one thousand seven hundred and twenty-five, by Francis Harrison, Cadwallader Colden, and Isaac Hicks, commissioners on the part of the then province of New York, and Jonathan Law, Samuel Eells, Roger Wolcott, John Copp, and Edmund Lewis, commissioners on the part of the then colony of Connecticut, and were run as the magnetic needle then pointed: then along an east-north-east continuation of the last mentioned course, one mile three quarters of a mile and twenty-one rods, to a monument erected in the year one thousand seven hundred and thirty-one, by Cadwallader Colden, Gilbert Willet, Vincent Matthews, and Jacobus Bruyn, junior, commissioners on the part of said province, and Samuel Eells, Roger Wolcott and Edmund Lewis, commissioners on the part of said colony; which said monument is at the south-east corner of a tract, known and distinguished as the oblong or equivalent lands; then north twenty-four degrees and thirty minutes west, until intersected by a line run by said last mentioned commissioners on a course south twelve degrees and thirty minutes west, from a monument erected by them in the south bounds of Massachusetts; which monument stands in a valley in the Taghkanick mountains, one hundred and twenty-one rods eastward from a heap of stones, in said bounds on the top or ridge of the most westerly of said mountains; then north twelve degrees and thirty minutes east, from a monument, erected by said last mentioned commissioners at said place of intersection and standing on the north side of a hill south-easterly from the easternmost end of the long pond, along the aforesaid line to the aforesaid monument erected in the south bounds of Massachusetts, being the northeast corner of the oblong; then west nine degrees south along the north bounds of the oblong, one mile three quarters of a mile twenty-one rods and five links, to a monument erected by said commissioners at the northwest corner of the oblong, and at the distance of twenty miles from Hudson's river; which four last mentioned lines were established by said last mentioned commissioners, and were run by them as the magnetic needle pointed in the year one thousand seven hundred and thirty-one; then north fifteen degrees twelve minutes and nine seconds east, along the line established in the year one thousand seven hundred and eighty-seven, by Thomas Hutchins, John Ewing, and David Rittenhouse, commissioners appointed by the United States in congress assembled, fifty miles forty-one chains and seventy-nine links, to a red or black oak tree marked by said commissioners, which said line was run by said last mentioned commissioners as the magnetic needle pointed in the year one thousand seven hundred and eighty-seven; then north eighty-two degrees and twenty minutes west, as the magnetic needle pointed in the year one thousand eight hundred and fourteen, fifty chains to a monument erected for the southwest corner of the state of Vermont, by Smith Thompson, Simeon De Witt and George

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TITLE 1.

Tibbits, commissioners on the part of this state, and Joseph Beeman junior, Henry Olin and Joel Pratt second, commissioners on the part of the state of Vermont, which monument stands on the brow of a high hill, descending to the west; then northerly in a straight line to a point which is distant ten chains, on a course south thirty-five degrees west, from the most westerly corner of a lot of land distinguished in the records of the town of Pownal, in the state of Vermont, as the fifth division of the right of Gamaliel Wallace, and which in the year one thousand eight hundred and fourteen, was owned and occupied by Abraham Vosburgh; then north thirty-five degrees east, to said corner, and along the westerly bounds of said lot, thirty chains to a place on the westerly bank of Hosick river, where a hemlock tree heretofore stood, noticed in said records as the most northerly corner of said lot; then north one degree and twenty minutes west, six chains to a monument erected by the said commissioners, standing on the westerly side of Hosick river on the north side of the highway leading out of Hosick into Pownal, and near the north-westerly corner of the bridge crossing said river; then north twenty-seven degrees and twenty minutes east, thirty chains through the bed of the said river, to a large roundish rock on the north-easterly bank thereof; then north twenty-five degrees west, sixteen chains and seventy links; then north nine degrees west, eighteen chains and sixty links to a white oak tree at the southwest corner of the land occupied in one thousand eight hundred and fourteen, by Thomas Wilsey; then north eleven degrees east, seventy-seven chains to the north side of a highway, where it is met by a fence dividing the possession of said Thomas Wilsey junior, and Emery Hunt; then north forty-six degrees east, six chains; then south sixty-six degrees east, twenty-six chains and twenty-five links; then north nine degrees east, twenty-seven chains and fifty links, to a blue slate stone anciently set up for the south-west corner of Bennington; then north seven degrees and thirty minutes east, forty-six miles forty-three chains and fifty links to a bunch of hornbeam saplings on the south bank of Poultney river, the northernmost of which was marked by said last mentioned commissioners, and from which a large butternut tree bears north seventy degrees west, thirty links, a large hard maple tree south two chains and eighty-six links, and a white ash tree on the north side of said river, north seventy-seven degrees east; which said several lines from the monument erected for the southwest corner of the state of Vermont, were established by said last mentioned commissioners, and were run by them as the magnetic needle pointed in the year one thousand eight hundred and fourteen; then down the said Poultney river through the deepest channel thereof, to East Bay; then through the middle of the deepest channel of East Bay and the waters thereof, to where the same communicate with Lake Champlain; then through the middle of the deepest channel of Lake Champlain to the eastward of the islands called the Four Brothers, and the westward of the islands called the Grand Isle and Long Isle, or the two Heroes, and to the westward of the Isle-La-Mott, to the line in the forty-fifth degree of north latitude, established by treaty for the boundary line between the United States and the British dominions; then west along said line to the

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Northern.

TITLE 1.

river St. Lawrence; then along the line established by the commissioners appointed under the sixth article of the treaty of Ghent, into and up the said river St. Lawrence to the waters of Lake Ontario; then along the said line through the waters of said lake and of the Niagara river to the waters of Lake Erie; then westerly through the same, and along the said line, until intersected by a meridian line drawn through the most westerly bent or inclination of Lake Ontario; then south along said meridian line to a monument in the beginning of the forty-third degree of north latitude, erected in the year one thousand seven hundred and eighty-seven, by Abraham Hardenburgh and William W. Morris, commissioners on the part of this state, and Andrew Ellicott and Andrew Porter, commissioners on the part of the state of Pennsylvania, for the purpose of making the termination of the line of jurisdiction between this state and the said state of Pennsylvania; then east along the line established and marked by said last mentioned commissioners to the ninetieth milestone in the same parallel of latitude, erected in the year one thousand seven hundred and eighty-six, by James Clinton and Simeon De Witt, commissioners on the part of this state, and Andrew Ellicott, commissioner on the part of Pennsylvania, which said ninetieth milestone stands on the western side of the south branch of the Tioga river; then east along the line established and marked by said last mentioned commissioners, to a stone erected in the year one thousand seven hundred and seventy-four on a small island in the Delaware river, by Samuel Holland and David Rittenhouse, commissioners on the part of the colonies of New York and Pennsylvania, for the purpose of marking the beginning of the forty-third degree of north latitude; then down along said Delaware river to a point opposite to the fork or branch formed by the junction of the stream called Mahackamack with the said Delaware river, in the latitude of forty-one degrees twenty-one minutes and thirty-seven seconds north; then in a straight line to the termination, on the east bank of the Delaware river, of a line run in the year one thousand seven hundred and seventy-four, by William Wickham and Samuel Gale, commissioners on the part of the then colony of New York, and John Stevens and Walter Rutherford, commissioners on the part of the then colony of New Jersey; then along said line to a rock on the west side of Hudson's river, in the latitude of forty-one degrees north, marked by said commissioners; then southerly along the west shore, at low water mark, of Hudson's river, of the Kill Van Kull, of the sound between Staten Island and New Jersey, and of Raritan Bay, to Sandy Hook; and then to the place of beginning, in such manner as to include Staten Island, and the islands of meadow on the west side thereof, Shooter's Island, Long Island, the Isle of Wight, now called Gardner's Island, Fisher's Island, Shelter Island, Plumb Island, Robin's Island, Ram Island, the Gull Islands, and all the islands and waters in the bay of New York, and within the bounds above described.

Western.

Southern.

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L. 1834, Chap. 8—An act to confirm the agreement entered into by the commissioners appointed by this state, and commissioners appointed by the state of New Jersey, to settle the boundary line between New York and New Jersey.

The agreement entered into between the commissioners appointed by this state, and the commissioners appointed by the state of New Jersey, to settle the boundary line between New York and New Jersey, in the words following, viz. :

Agreement. "Agreement made between the commissioners on the part of the state of New York, and the commissioners on the part of the state of New Jersey, relative to the boundary line between the two states.

Agreement made and entered into by and between Benjamin F. Butler, Peter Augustus Jay and Henry Seymour, commissioners duly appointed on the part and behalf of the state of New York, in pursuance of an act of the legislature of the said state, entitled, "An act concerning the territorial limits and jurisdiction of the state of New York and the state of New Jersey," passed January 18th, 1833, of the one part, and Theodore Frelinghuysen, James Parker and Lucius Q. C. Elmer, commissioners duly appointed on the part and behalf of the state of New Jersey, in pursuance of an act of the legislature of the said state, entitled "An act for the settlement of the territorial limits and jurisdiction between the states of New Jersey and New York," passed February 6th, 1833, of the other part.

ARTICLE I.

Boundary line between the two states. The boundary line between the two states of New York and New Jersey, from a point in the middle of Hudson river opposite the point on the west shore thereof, in the forty-first degree of north latitude, as heretofore ascertained and marked, to the main sea, shall be the middle of the said river, of the bay of New York, of the waters between Staten Island and New Jersey, and of Raritan bay, to the main sea, except as hereinafter otherwise particularly mentioned.

42 N. Y., 290.

ARTICLE II.

Jurisdiction of New York. The state of New York shall retain its present jurisdiction of and over Bedlow's and Ellis' islands, and shall also retain exclusive jurisdiction of and over the other islands lying in the waters above mentioned, and now under the jurisdiction of that state.

ARTICLE III.

Ib. The state of New York shall have and enjoy exclusive jurisdiction of and over all the waters of the bay of New York, and of and over all the waters of Hudson river lying west of Manhattan island and to the south of the mouth of Spuytenduyvel creek, and of and over the lands covered by the said waters to the low water mark on the westerly or New Jersey side thereof; subject to the following rights of property and of jurisdiction of the state of New Jersey, that is to say :

New Jersey right of property. 1. The state of New Jersey shall have the exclusive right of property in and to the land under water lying west of the middle of the bay of New York and west of the middle of that part of the Hudson river which lies between Manhattan island and New Jersey.

Exclusive Jurisdiction. 2. The state of New Jersey shall have the exclusive jurisdiction of and over the wharves, docks and improvements made, and to be made, on the shore of the said state, and of and over all vessels aground on said shore, or fastened to any such wharf or dock; except that the said vessels shall be subject to the quarantine or health laws, and laws in relation to passengers, of the state of New York, which now exist or which may hereafter be passed.

Fisheries. 3. The state of New Jersey shall have the exclusive right of regulating the fisheries on the westerly side of the middle of the said waters, provided that the navigation be not obstructed or hindered.

ARTICLE IV.

Jurisdiction over Kill Van Kull. The state of New York shall have exclusive jurisdiction of and over the waters of the Kill Van Kull, between Staten Island and New Jersey, to the westernmost end of Shooter's Island, in respect to such quarantine laws and laws relating to passengers as now exist, or may hereafter be passed under the authority of that state, and for executing the same; and the said state shall also have exclusive jurisdiction, for the like purposes, of and over the waters of the sound, from the westernmost end of Shooter's Island to Woodbridge creek, as to all vessels bound to any port in the said state of New York.

ARTICLE V.

Waters of the sound. The state of New Jersey shall have and enjoy exclusive jurisdiction of and over all the waters of the sound between Staten Island and New Jersey, lying south of Woodbridge creek, and of and over all the waters of Raritan bay lying westward of a line drawn from the light-house at Prince's bay to the mouth of Mattavan creek, subject to the following rights of property and of jurisdiction of the state of New York.

1. The state of New York shall have the exclusive right of property in and to the land under water, lying between the middle of the said waters and Staten Island.

Docks on Staten Island. 2. The state of New York shall have the exclusive jurisdiction of and over the wharves, docks and improvements made and to be made, on the shore of Staten Island; and of and over all vessels aground on said shore, or fastened to any such wharf or dock, except that the said vessel shall be subject to the quarantine or health laws, and laws in relation to passengers of the state of New Jersey which now exist, or which may hereafter be passed

Fisheries. 3. The state of New York shall have the exclusive right of regulating the fisheries between the shore of Staten Island and the middle of the said waters, provided that the navigation of the said waters be not obstructed or hindered.

ARTICLE VI.

New Jersey criminal process. Criminal process issued under the authority of the state of New Jersey, against any person accused of an offence committed within that state; or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid; or committed against the regulations made or to be made by that state, in relation to the fisheries mentioned in the third article; and also civil process issued under the authority of the state of New Jersey against any person domiciled in that state, or against property taken out of that state to evade the laws thereof; may be served upon any of the said waters within the exclusive jurisdiction of the state of New York, unless such person or property shall be on board a vessel aground upon, or fastened to the shore of the state of New York, or fastened to a wharf adjoining thereto; or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New York

ARTICLE VII.

New York criminal process. Criminal process issued under the authority of the state of New York, against any person accused of an offence committed within that state; or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid; or committed against the regulations made or to be made by that state, in relation to the fisheries mentioned in the fifth article; and also civil process issued under the authority of the state of New York, against any person domiciled in that state, or against property taken out of that state to evade the laws thereof; may be served upon any of the said waters within the exclusive jurisdiction of the state of New Jersey, unless such

persons or property shall be on board a vessel aground upon, or fastened to the shore of the state of New Jersey, or fastened to a warf adjoining thereto; or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New Jersey.

ARTICLE VIII.

Agreement to become binding. This agreement shall become binding on the two states when confirmed by the legislatures thereof respectively, and when approved by the congress of the United States.

Date of agreement. Done in four parts (two of which are retained by the commissioners of New York, to be delivered to the governor of that state, and the other two of which are retained by the commissioners of New Jersey, to be delivered to the governor of that state), at the city of New York, this sixteenth day of September, in the year of our Lord one thousand eight hundred and thirty-three, and of the independence of the United States, the fifty-eighth.

(Signed,) B. F. BUTLER, THEO. FRELINGHUYSEN,
 PETER AUGUSTUS JAY, JAMES PARKER,
 HENRY SEYMOUR, LUCIUS Q. C. ELMER."

is hereby ratified and confirmed on the part of the state of New York.

L. 1853, Chap. 586 — An act accepting the sovereignty and jurisdiction over a certain portion of territory of the commonwealth of Massachusetts ceded to the state of New York upon certain conditions by said commonwealth in 1853.

Jurisdiction over Boston corner accepted; not to take effect until approved by congress. SECTION 1. Sovereignty and jurisdiction over that portion of the territory of the commonwealth of Massachusetts, known as the district of Boston corner, situate in the southwesterly corner of the said commonwealth of Massachusetts, and westerly of the southwest line of the town of Mount Washington, in the county of Berkshire, ceded to the state of New York, upon certain conditions, by an act of the legislature of the said commonwealth, passed in May, 1853, entitled "An act relating to the separation of the district of Boston corner from this commonwealth, and the cession of the same to the state of New York," is hereby accepted by the state of New York: this section, however, is not to take effect until the congress of the United States shall consent to such cession and annexation.

Until proclamation published, courts of Massachusetts have jurisdiction. § 2. Until the proclamation, provided in the third section of the act of the legislature of the said commonwealth, referred to in section one of this act, shall be issued, the courts of the said commonwealth of Massachusetts shall have authority to take and hold effectual civil and criminal jurisdiction in any cause or matter pending, or which shall have arisen anterior to the issuing of the said proclamation.

Governor to appoint a surveyor; maps and survey to be filed in the office of secretary of state. § 3. His excellency, the governor of this state, for the better defining the limits and extent of the territory mentioned in this act, shall appoint a suitable person to act in conjunction with proper authorities of the commonwealth of Massachusetts, who shall cause an accurate survey and map to be made of the said territory, and shall cause sufficient monuments to be erected in and along the eastern boundary line of said territory, and shall cause the said map and survey to be duly authenticated and filed in the office of the secretary of this state, as record evidence of the extent and limits of such cession.

L. 1875, Chap. 424 — An act in regard to the boundary monuments of the state.

True location of monuments; regents of the university to examine. SECTION 1. The regents of the university are hereby authorized and directed to resume the work of

“examination as to the true location of the monuments which mark the several boundaries of the state,” as authorized by the resolution of the senate of April nineteenth, eighteen hundred and sixty-seven, and in connection with the authorities of Pennsylvania and New Jersey, respectively, to replace any monuments which have become dilapidated or been removed, on the boundary lines of those states.

Expenses, appropriation for. § 2. The sum of three thousand dollars, or so much thereof as may be necessary, is hereby appropriated for expenses of renewing and replacing monuments, and for contingent expenses.

Report to the legislature. § 3. The regents shall report to the legislature on the progress of this work, with an account of all expenditures.

L. 1876, Chap. 193—An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations.

[The annual supply bill.]

(*Extract from § 1.*) The treasurer shall pay * * * for making an accurate trigonometric and topographical survey of the state for the determination of state and county lines, the sum of twenty thousand dollars, to be paid to the parties entitled to receive the same, upon the audit of the board hereinafter created, as attested by the requisition of the president and clerk thereof, as hereinafter provided. William A. Wheeler, Horatio Seymour, John V. L. Pruyn, Robert S. Hale, Frederick L. Olmstead, William Dorsheimer and Francis A. Stout are hereby appointed commissioners to conduct the same, to be known as the board of commissioners of the state survey, to hold office for a term of one year, and to serve as such without compensation; but such commissioners may be reimbursed for their expenses necessarily incurred in the discharge of their duties to an amount not exceeding the sum of three hundred dollars each. The said board shall select one of their number as president thereof, and may employ a clerk, and shall, on or before the fifteenth day of next January, make to the legislature a report of their proceedings during the year, and a detailed statement of their expenditures. The said commissioners shall, in the discharge of their duty, so far as the same is practicable, cause to be established certain points and lines, for the guidance of local surveyors, and at least one such point and line in each county, connecting the same with the triangulation of the United States coast survey, now established and fixed by permanent monuments, from Fire Island to the Canada line, and with the boundary survey of the line between this state and Canada.

L. 1877, Chap. 275—An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations.

[The annual supply bill.]

State survey. (*Extract from § 1.*) The term* office of the board of commissioners of the state survey, appointed by chapter one hundred and ninety-three of the laws of eighteen hundred and seventy-six, is hereby extended to the first day of May, eighteen hundred and seventy-eight; and George Geddes is hereby appointed a commissioner of the state survey in place of Frederick L. Olmstead, resigned.

Frederick A. P. Barnard is hereby appointed an additional member of such board of commissioners of the state survey. Five members of the board, convened at any regular meeting thereof, shall constitute a quorum for the transaction of business.

L. 1878, Chap. 216—An act relating to the state survey, and making appropriation therefor.

Commissioners to conduct survey. SECTION 1. In order to define the objects of the state survey, to limit the expense thereof, and to provide for its speedy comple-

* So in the original.

tion, the following commissioners, William A. Wheeler, Horatio Seymour, Robert S. Hale, William Dorsheimer, Francis A. Stout, George Geddes and Frederick A. P. Barnard, are hereby reappointed to conduct the same in accordance with their last report to the legislature namely: The work is to be confined to fixing such meridian and other lines and points as are necessary to give correct bases for county, town and other surveys, so that they may be of permanent value at any time in the future.

President; quorum; compensation; report. § 2. The said commissioners shall elect one of their number as their president. At any regularly called meeting of the board, three commissioners shall constitute a quorum. No compensation shall be paid to the commissioners under this act, but they may be repaid the expenses incurred in the discharge of their duties. A report shall be made annually by the commissioners to the legislature, showing in detail all expenditures and proceedings, and, so far as practicable, all results obtained by virtue of this act.

Payments, how made. § 3. All payments made to carry out this act shall be upon the certificate of a majority of said commissioners. The comptroller is hereby authorized to pay the same upon the presentation of such certificate.

Appropriation. § 4. The sum of fourteen thousand three hundred dollars is hereby appropriated for the purposes of this act, out of any moneys in the treasury not otherwise appropriated, which shall be paid by the treasurer, on the warrant of the comptroller.

L. 1883, Chap. 280 — An act in relation to the board of commissioners of the state survey.

Governor to fill vacancies. SECTION 1. The governor is hereby authorized and empowered, by and with the advice and consent of the senate, to fill any vacancies now existing, or that may hereafter exist, in the board of commissioners of the state survey, created by chapter two hundred and sixteen of the laws of eighteen hundred and seventy-eight.

L. 1886, Chap. 414 — An act to provide for putting in permanent and most useful form the records and results of the state survey, and for preserving the same.

Records of survey, how perfected. SECTION 1. The commissioners of the state survey are hereby directed and empowered to perfect and complete the records and computations of the state survey, so as to put them in the most permanent and convenient form for future use, and to prepare for printing such records and results as should be published, the work to be done substantially in accordance with their report to this legislature.

Final report to next legislature; records, etc., to be deposited with state engineer. § 2. The records and results that are to be published shall be transmitted to the next legislature in complete form for printing. All other records shall, when the work is completed, be deposited in the office of the state engineer and surveyor, and all property of the survey shall, when the records are completed, be turned over to the state engineer and surveyor.

Direction of work and expenditures. § 3. The arrangements for the prosecution of the work shall be made with the advice and approval of the state engineer and

surveyor, and all accounts of expenditures shall be audited by him and by the president of the board of commissioners of the state survey before being sent to the comptroller. In case either party is incapacitated to act, the audit of the other one shall be sufficient.

Appropriation; duty of state engineer. § 4. The sum of seven thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purposes of this act; but no part of the sum herein appropriated shall be expended unless it shall be made to appear to the satisfaction of the state engineer and surveyor that the work can be completed as herein contemplated within this appropriation, and shall certify his opinion to that effect to the comptroller.

L. 1878, Chap. 370—An act limiting the time and expense of completing the Adirondack survey.

Survey to be completed in six years. SECTION 1. The time for the completion of the topographical survey and exploration of the Adirondack wilderness region is hereby limited to six years from the passage of this act; and the topographical character of the work shall be complete in all respects throughout the area under survey.

Annual appropriation. § 2. The annual appropriation for the purposes of the survey shall be ten thousand dollars; and the compensation of the superintendent thereof shall be paid out of this sum at the rate fixed by chapter three hundred and twenty-three of the laws of eighteen hundred and seventy-four, and the said sum of ten thousand dollars is hereby appropriated, out of any funds in the treasury not otherwise appropriated, for the purpose of carrying out the provisions hereof for the year eighteen hundred and seventy-eight.

Annual report. § 3. A full report on the progress of the survey shall be annually presented, printed, to the legislature, within sixty days after the meeting thereof.

L. 1883, Chap. 499—An act to provide for the survey of detached portions of state lands, in the north-eastern portion of New York and Adirondack wilderness, and making appropriation therefor.

Superintendent of Adirondack survey to make survey of state lands in counties named. SECTION 1. The superintendent of the Adirondack survey is hereby directed to make surveys showing the location and area of the detached portions of state lands in the counties of Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, Saratoga, St. Lawrence and Warren, and to connect the same with the surveys of the interior, and to show upon a map or maps the position of such lands.

Maps, etc., to be filed and report made; appropriation. § 2. The methods of survey shall be in accordance with those now in use on the Adirondack survey, and copies of all maps relating to such state lands shall be filed in the office of the comptroller and state engineer and surveyor, and the said superintendent shall render a report to the legislature of his proceedings and of the results of the work within sixty days after the meeting of the legislature, and the sum of fifteen thousand dollars is hereby appropriated, payable by the state treasurer, on the warrant of the comptroller, out of any moneys not otherwise appropriated, for the purposes of carrying out the provisions of this act; which said sum shall be accounted for to the comptroller, with bills of items and vouchers therefor.

L. 1879, Chap. 93—An act accepting sovereignty and jurisdiction over a portion of the state of Vermont, ceded to the state of New York in the year eighteen hundred and seventy-six.

Jurisdiction of territory ceded by Vermont, accepted. SECTION 1. Sovereignty and jurisdiction over "all that portion of the town of Fair Haven, in the county of Rutland and state of Vermont, lying westerly from the middle of the deepest channel of Poultney river, as it now runs, and between the middle of the deepest channel of said river and the west line of the state of Vermont, as at present established," as the same is described in an act of the legislature of the state of Vermont, entitled "An act annexing that portion of the town of Fair Haven, lying west of Poultney river, to the state of New York," and approved by the governor of said state of Vermont, November twenty-seventh, eighteen hundred and seventy-six, and the cession of the same to the state of New York, is hereby accepted by the state of New York.

When to take effect. § 2. This act shall take effect when the congress of the United States shall consent to such cession and annexation.

L. 1879, Chap. 166—An act to provide for the settlement of the boundary lines between the state of New York and the state of Connecticut.

Commission to ascertain certain boundary between this state and Connecticut. SECTION 1. The secretary of state, the attorney-general and the state engineer and surveyor are hereby designated and appointed as commissioners on the part of the state of New York to ascertain the boundary lines between this state and the state of Connecticut, both upon the west and south of the state of Connecticut, and the said commissioners are hereby authorized and empowered to meet such commissioners as have been or may be appointed, and vested with similar powers on the part of the state of Connecticut, under authority of the legislature thereof, and with such last-mentioned commissioners as soon as may be, to ascertain and agree upon both of the said boundary lines, designating the same by suitable monuments at such places as they shall deem necessary; and said commissioners hereby appointed are authorized to employ such surveyors and assistants as may be necessary. The said commissioners shall report their doings to the legislature of this state for its consideration and ratification.

Appropriation. § 2. The sum of three thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury applicable to such purposes to pay the necessary expenses and disbursements of the said commissioners in the performance of the duties required by this act, and the comptroller is authorized to draw his warrant upon the treasurer for the moneys hereby appropriated, from time to time, as the same may be needed.

L. 1880, Chap. 213—An act to ratify and confirm the agreement in relation to the boundary lines between the state of New York and the state of Connecticut, entered into by commissioners on the part of said states.

Settlement of boundary line between New York and Connecticut; memorandum of agreement. SECTION 1. The agreement for the settlement of the boundary lines between the state of New York and the state of Connecticut, entered into by the commissioners appointed for that purpose on the part of said states, respectively a duplicate original of which is on file in the office of the secretary of state, and a copy

of which has been reported to the legislature, is hereby ratified and adopted. The said agreement is as follows, namely: "Memorandum of agreement by and between the subscribers, commissioners of the states of New York and Connecticut, respectively, to settle the question of the boundaries between said states, being thereunto authorized by the resolutions of said states respectively passed by them, is hereunto annexed. That is to say, we, Allen C. Beach, secretary of state; Augustus Schoonmaker, Jr., attorney-general, and Horatio Seymour, Jr., state engineer and surveyor, commissioners of the state of New York, and we, Origen S. Seymour, La Fayette S. Foster, and William T. Minor, commissioners of the state of Connecticut, have agreed and do hereby agree, to fix, determine and establish the boundaries between our respective states, subject to the approval and ratification of the legislatures of our respective states in the following manner: We agree that the boundary on the land constituting the western boundary of Connecticut and the eastern boundary of the state of New York shall be and is as the same was defined by monuments erected by commissioners appointed by the legislature of the state of New York and completed in the year eighteen hundred and sixty. The said boundary line extending from Byram Point, formerly called Lyon's Point, on the south, to the line of the state of Massachusetts on the north. And we further agree that the boundary on the sound shall be and is as follows: Beginning at a point in the center of the channel about six hundred feet south of the extreme rocks of Byram Point, marked No. 0, on appended United States coast survey chart; thence running in a true southeast course three and one-fourth statute miles; thence in a straight line (the arc of a great circle) north-easterly to a point four statute miles true south of New London light-house; thence northeasterly to a point marked number one on the annexed United States coast survey chart of Fisher's island sound, which point is on the longitude east three-quarters north sailing-course drawn on said map, and is about one thousand feet northerly from the Hammock or North Dumpling light-house; thence following said east three-fourths north sailing-course as laid down on said map easterly to a point marked number two on said map; thence southeasterly toward point marked number three on said map, so far as said states are co-terminous; provided, however, that nothing in the foregoing agreement contained shall be construed to affect existing titles to property corporeal or incorporeal, held under grants heretofore made by either of said states, nor to affect existing rights which said states, or either of them, or which the citizens of either of said states may have, by grant, letters-patent or prescription, of fishing in the waters of said sound, whether for shell or floating fish, irrespective of the boundary line hereby established, it not being the purpose of this agreement to define, limit or interfere with any such right, rights or privileges, whatever the same may be.

In witness whereof we have hereunto set our hands to this instrument and to a duplicate thereof, December eighth, eighteen hundred and seventy-nine.

ALLEN C. BEACH,
Secretary of State.

AUGUSTUS SCHOONMAKER, JR.,
Attorney-General.

HORATIO SEYMOUR, JR.,
State Engineer and Surveyor.
Commissioners of the State of New York.

ORIGEN S. SEYMOUR,
LAFAYETTE S. FOSTER,
WILLIAM T. MINOR,
Commissioners of the State of Connecticut."

Governor authorized to transmit copy to governor of Connecticut. § 2. The governor is authorized and requested to transmit a copy of this act to the governor of the state of Connecticut, and, upon receiving due notice of the adoption of said agreement by the state of Connecticut, the governor of this state shall cause such notice to be filed in the office of the secretary of state, and, upon the same being so filed, the said agreement shall become binding and operative, and in full force, and the boundary between this state and the state of Connecticut shall be fixed and established as specified and provided in said agreement.

Communication to congress. § 3. Upon the said agreement taking effect as herein provided, the governor is authorized, in concurrence with the executive of Connecticut, to communicate to congress the action of the two states on this subject, and to request the approval of congress of the boundaries thus established.

L. 1880, Chap. 340 — An act to provide for the settlement of the boundary lines between the state of New York and the states of Pennsylvania and New Jersey, respectively.

Establishment of lines between states of New York, New Jersey and Pennsylvania.
SECTION 1. Whereas, by an act of the legislature, passed the twenty-sixth day of May, eighteen hundred and seventy-five, the regents of the university were authorized and directed, "in connection with the authorities of Pennsylvania and New Jersey, respectively, to replace any monuments which have become dilapidated or been removed, on the boundary lines of those states;" and, whereas, from the examination made by said regents, it has been found that said monuments, as located by the original joint commissioners, do not conform in all cases to the verbal descriptions of said lines, and questions have arisen between the commissioners of said states as to the proper location of said monuments; therefore, it is hereby declared that the lines originally laid down and marked with monuments by the several joint commissioners duly appointed for that purpose, and which have since been acknowledged and legally recognized by the several states interested, as the limits of their territory and jurisdiction, are the boundary lines of said states, irrespective of want of conformity to the verbal descriptions thereof.

Regents to appoint three of their number commissioners to agree upon location of lines, etc.
§ 2. Said regents are hereby authorized and empowered to designate and appoint three of their number as commissioners to meet such commissioners as have been or may be appointed and vested with similar powers, on the part of the states of Pennsylvania and New Jersey, or either of them, and, with such last-mentioned commissioners as soon as may be, to proceed to ascertain and agree upon the location of said lines as originally established and marked with monuments; and, in case any monuments are found dilapidated or removed from their original location, said commissioners are authorized to renew or replace them in a durable manner, in their original positions, and to erect such additional monuments at such places on said lines as they may deem necessary for the proper designation of the boundary lines of said states. The said regents shall report the action of said commissioners to the legislature of this state for its consideration and ratification.

Appropriation. § 3. The sum of three thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury applicable for such purposes, to pay the necessary expenses and disbursements of said commissioners in the performance of the duties required by this act, and the comptroller is authorized to draw his warrant upon the treasurer for moneys hereby appropriated from time to time, as the same may be needed.

L. 1884, Chap. 351 — An act to ratify and confirm the agreement entered into by commissioners on the part of the states of New York and New Jersey in relation to that portion of the boundary line between said states, extending from the Hudson river on the east to the Delaware river on the west.

Agreement ratified. Copy agreement. SECTION 1. The agreement for the settlement and re-marking of that portion of the boundary line between the state of New York and the state of New Jersey, which extends from the Hudson river on the east to the Delaware river on the west, is hereby ratified and confirmed as follows, that is to say: An agreement made the seventh day of June, in the year eighteen hundred and eighty-three, between Henry R. Pierson, Elias W. Leavenworth and Chauncey M. Depew, commissioners on the part of the state of New York, and Abraham Browning, Thomas N. McCarter and George H. Cook, commissioners on the part of the state of New Jersey.

WHEREAS, By the first section of chapter three hundred and forty of the laws of the state of New York for the year eighteen hundred and eighty, it was recited, among other things, that whereas, by an act of the legislature, passed the twenty-sixth day of May, eighteen hundred and seventy-five, the regents of the university of the state of New York were authorized and directed, in connection with the authorities of Pennsylvania and New Jersey, respectively, to replace any monuments which have become dilapidated or been removed on the boundary lines of those states, and it was thereby declared that the lines originally laid down and marked with monuments by the several joint commissioners, duly appointed for that purpose, and which have since been acknowledged and legally recognized by the several states interested, as the limits of their territory and jurisdiction, are the boundary lines of said states irrespective of want of conformity to the verbal descriptions thereof; and by the second section of the same chapter of the laws of the state of New York, the said regents were authorized and empowered to designate and appoint three of their number as commissioners, to meet such commissioners as may have been, or may be, appointed on the part of the states of Pennsylvania and New Jersey, or either of them, and with such last-named commissioners, as soon as may be, to proceed to ascertain and agree upon the location of said lines as originally established and marked with monuments, and in case any monuments are found dilapidated or removed from their original location, said commissioners are authorized to replace them in a durable manner in their original positions, and to erect such additional monuments at such places on said lines as they may deem necessary for the proper designation of the boundary lines of said states.

AND WHEREAS, Also the above-named Henry R. Pierson, Elias W. Leavenworth and Chauncey M. Depew have been duly designated and appointed by the said regents of the university of the state of New York, commissioners on the part of said state for the purposes mentioned in the said act;

AND WHEREAS, Also by an act of the legislature of the state of New Jersey, entitled "An act appointing commissioners to locate the northern boundary line between the states of New York and New Jersey and to replace and erect monuments thereon," approved April thirteen, eighteen hundred and seventy-six, the governor of the state of New Jersey was authorized to appoint three commissioners with power, on the part of said state of New Jersey, to meet any authorities on the part of the state of New York, who may be duly authorized, and with them to negotiate and agree upon the true location of the said boundary line between the states of New York and New Jersey, and also to replace any monuments which may have become dilapidated, or been removed, on said boundary line, and to erect new ones, which agreement it was thereby enacted should be in writing and signed and sealed by the authorities of the state of New York and the commissioners of the state of New Jersey;

AND WHEREAS, The above-named Abraham Browning, Thomas N. McCarter and George H. Cook have been duly appointed commissioners on the part of the state of New Jersey, under said act;

AND WHEREAS, By a supplement to the last said act, approved on the twenty-fifth day of March, eighteen hundred and eighty-one, the commissioners under the last said act were, in addition to the authority conferred by the last said act, also authorized in their discretion to proceed to ascertain and agree upon the location of the northern boundary line between the states of New York and New Jersey, as originally established and marked with monuments, and in case any monuments are found dilapidated, or removed from their original location, said commissioners were authorized to renew and replace them in a durable manner in their original positions, and to erect such additional monuments, at such places on said line, as they may deem necessary for the proper designation of the boundary line of said states;

AND WHEREAS, The said commissioners, acting for and on behalf of their respective states, have entered upon the performance of the duties imposed upon them by the said acts, and have, in pursuance of the authority to them severally given as aforesaid, agreed, and hereby do agree, as follows:

First. The lines extending from the Hudson river on the east to the Delaware river on the west, as the same was laid down and marked with monuments in seventeen hundred and seventy-four, by William Wickham and Samuel Gale, commissioners on the part of the then colony of New York, duly appointed for that purpose in pursuance of an act of the assembly of the colony of New York, passed on the sixteenth day of February, seventeen hundred and seventy-one, entitled "An act for establishing the boundary or partition line between the colonies of New York and Nova Cæsarea, or New Jersey, and for conferring titles and possession," and John Stevens and Walter Rutherford, commissioners on the part of the then colony of New Jersey, duly appointed in pursuance of an act of the assembly of the colony of New Jersey, passed on the twenty-third day of September, seventeen hundred and seventy-two, entitled "An act for establishing the boundary or partition line between the colonies of New York and Nova Cæsarea, or New Jersey, and for conferring titles and possession," which said line has since been acknowledged and recognized by the two states as the limit of their respective territory and jurisdiction, shall, notwithstanding its want of conformity to the verbal description thereof as recited by said commissioners, continue to be the boundary or partition line between the said two states; provided that wherever upon said line the location of one or more of the monuments, erected by said commissioners in seventeen hundred and seventy-four, has been lost and cannot be otherwise definitely fixed and determined, then, and in that case and in every case where it is required to establish intervening points on said line, a straight line drawn between the nearest adjacent monuments whose localities are ascertained shall be the true boundary line.

Second. The monumental marks by which said boundary line shall hereafter be known and recognized are hereby declared to be, first, the original monuments of stone erected in seventeen hundred and seventy-four, along said line, by the commissioners aforesaid, as the same has been restored and re-established in their original positions by Edward A. Bowser, surveyor on the part of New Jersey, and Henry W. Clarke, surveyor on the part of New York, duly appointed by the parties hereto; second, the new monuments of granite erected by the aforesaid surveyors at intervals of one mile, more or less, along said line and numbered consecutively, beginning from the Hudson river, and severally marked on the northerly side with the letters N. Y., and on the southerly side with the letters N. J.; and third the monuments of granite erected by the aforesaid surveyors at intervening points on said line at its intersection with public roads, railroads and rivers, and severally marked by them, on the northerly side with the letters N. Y., and on the southerly side with the letters N. J.; and fourth, the terminal monuments erected at the western terminus of said line at the confluence of the Delaware and Navesink rivers, and the terminal monument erected on the brow of the rock called the Palisades, near the eastern terminus, and the rock lying and being at the foot of the Palisades on the bank of the Hudson river, and marked as the original terminal monument of said line established in seventeen hundred and seventy-four, as the same are described in a joint report made to the parties hereto by Elias W.

Leavenworth, commissioner on the part of New York, and George H. Cook, commissioner on the part of New Jersey.

Third. The field books of said surveyors containing the descriptions of the locations of the several monuments erected by them and of the witness marks thereto, the report of said surveyors containing the account of their work in ascertaining and marking said line, together with the topographical map of said line and the vicinity thereof, and the several documents and books of record containing the transactions of the parties aforesaid, having been duly authenticated and attested by the signatures of the said commissioners, and placed in file in the offices of the secretaries of state of the two states, shall constitute the permanent and authentic records of said boundary line, and are hereby adopted by the parties hereto, and made part of this agreement.

Fourth. This agreement shall become binding on the two states when confirmed by the legislatures thereof, respectively, and when confirmed by the congress of the United States.

In witness whereof, the said commissioners have hereto set their hands and seals, in duplicate, this seventh day of June, in the year of our Lord one thousand eight hundred and eighty-three.

HENRY R. PIERSON,
E. W. LEAVENWORTH,
CHAUNCEY M. DEPEW,
A. BROWNING,
THOMAS N. McCARTER,
GEO. H. COOK.

Executed in the presence of:

Witness as to Henry R. Pierson, A. C. JUDSON, Albany, N. Y.

As to Chauncey M. Depew, W. J. VAN ARSDALE.

As to commissioners of New Jersey, B. WILLIAMSON.

Witness to the signature of E. W. Leavenworth, A. F. LEWIS.

Governor to transmit copy of act to governor of New Jersey. § 2. The governor is hereby authorized and requested to transmit a copy of this act to the governor of the state of New Jersey, and upon receiving due notice of the adoption of such agreement by the state of New Jersey, he shall cause to be filed in the office of the secretary of state together with the duplicate original of said agreement, and the duplicate permanent and authentic records of said boundary line as described in said agreement.

Action of the two states to be transmitted to congress. § 3. Upon receiving notice of the adoption of said agreement by the state of New Jersey, the governor is authorized in concurrence with the executive of New Jersey to communicate to congress the action of the two states in relation to said boundary line, and to request the approval of congress to the agreement entered into by the two states; and upon such approval the said agreement shall become fully binding and operative, and the said boundary line between this state and the state of New Jersey shall be fixed and established as specified and provided in said agreement.

L. 1886, Chap. 610 — An act providing for filing certain boundary records in the clerk's offices of the counties of Orange and Rockland.

Duty of secretary of state as to New Jersey boundary. SECTION 1. The secretary of state, upon the filing in his office of the documents and records of the boundary line between this state and the state of New Jersey, required by chapter three

hundred and fifty-one of the laws of eighteen hundred and eighty-four, shall cause to be deposited in the offices of the county clerks of the counties of Orange and Rockland, copies of the record giving a description of all the monuments erected upon said boundary line by the joint boundary commission, in said chapter three hundred and fifty-one referred to, and copies of the map showing the locations of said monuments. Such copies to be properly authenticated by his signature.

L. 1886, Chap. 449 — An act to provide for the care and preservation of the monuments marking the boundary lines of the state.

Boundary lines of state, care of monuments for. Disturbance of, how punished. SECTION 1. The supervisors and commissioners of highways of any and all towns of this state which may adjoin any of the boundary lines of the state are hereby charged with the care and preservation of the monuments which have heretofore been placed, or may hereafter be placed, by official action, to mark the said boundary lines. And the said supervisors and commissioners of highways are hereby required to enforce the statutes of this state for the preservation of monuments and landmarks, so far as they may relate to said boundary monuments, and to prosecute any person who may injure, disturb or remove any of them.

State engineer and surveyor to replace monuments. § 2. The state engineer and surveyor is hereby authorized and directed during the year eighteen hundred and eighty-seven, and every third year thereafter to cause to be made an examination and inspection of all the said monuments upon the state boundary and to make a detailed report thereof to the legislature and if any such monuments be found injured, displaced or removed said state engineer and surveyor is hereby authorized and directed in co-operation with persons duly authorized by the adjoining state, to restore and replace the same and to cause suitable stone monuments to be set wherever such are now lacking, at the points where said state boundary is intersected by the boundary of any towns or counties of this state or by any highway, and for the purpose of carrying out the provisions of this act the sum of three thousand dollars, or so much thereof as may be necessary, is hereby appropriated therefor, payable by the treasurer upon the warrant of the comptroller upon the certificate of the state engineer and surveyor out of any money not otherwise appropriated. [*Thus amended by L. 1887, ch. 421.*]

Duty of state engineer, as to state lines. When to enforce requirements of act. § 3. The said state engineer and surveyor, upon the passage of this act, is authorized and directed to transmit a copy thereof to the supervisor of each town adjoining any of the boundary lines of the state, upon which monuments may be placed, with such instructions as he may deem necessary. And he is hereby further authorized to take such action as may be necessary for the enforcement of this act in the case of the neglect of any of the town officers aforesaid to comply with the requirements of sections one and two of this act.

L. 1886, Chap. 560 — An act to ratify and confirm the agreement entered into by commissioners on the part of the states of New York and Pennsylvania in relation to the boundary line between said states.

Agreement for settlement of boundary line by commissioners. SECTION 1. The agreement for the settlement and re-marking of the boundary line between the state of New York and the state of Pennsylvania is hereby ratified and confirmed, as follows, that is to say:

AN AGREEMENT made the twenty-sixth day of March, in the year eighteen hundred and eighty-six, between Henry R. Pierson, Elias W. Leavenworth and Chauncey M. Depew, commissioners on the part of the state of New York, and Christopher M. Gere and Robert N. Torry, commissioners on the part of the state of Pennsylvania.

WHEREAS, by the first section of chapter four hundred and twenty-four, of the laws of the state of New York for the year eighteen hundred and seventy-five, the regents of the university of the state of New York were authorized and directed to resume the work of "examination as to the true location of the monuments which mark the several boundaries of the state," as authorized by the resolution of the senate of April nineteenth, eighteen hundred and sixty-seven, and in connection with the authorities of Pennsylvania, to replace any monuments which may have become dilapidated or been removed on the boundary line of that state; and,

WHEREAS, the said board of regents of the university did through a committee of said board, previously appointed for the purpose, under said senate resolution of eighteen hundred and sixty-seven, proceed to carry out the instructions contained in said chapter four hundred twenty-four of the laws of eighteen hundred and seventy-five; and,

WHEREAS, by chapter three hundred and forty of the laws of the said state of New York for the year eighteen hundred and eighty, the said regents of the university were further authorized and empowered to designate and appoint three of their number as commissioners to meet such commissioners as may have been or may be appointed on the part of the state of Pennsylvania, and with such last-named commissioners as soon as may be, to proceed to ascertain and agree upon the location of the boundary line between said states, as originally established and marked with monuments, and in case any monuments are found dilapidated or removed from their original location, to replace them in a durable manner in their original position, and to erect such additional monuments at such places on such lines as they may deem necessary for the proper designation of the boundary line between said states; and,

WHEREAS, the above-named Henry R. Pierson, Elias W. Leavenworth and Chauncey M. Depew were by resolution passed on the thirteenth day of July, eighteen hundred and eighty, duly designated and appointed by the said regents of the university of the state of New York as commissioners on the part of the state of New York for the purposes mentioned in said act; and,

WHEREAS, also, by an act of the legislature of the state of Pennsylvania, entitled "An act in regard to the boundary monuments on the line between the state of Pennsylvania and New York, with an appropriation for expenses of the same," passed May eighth, eighteen hundred and seventy-six, the governor of the state of Pennsylvania was authorized and empowered "to appoint three persons to be a commission to act in conjunction with a similar commission of the state of New York, to examine as to the true location of the monuments which mark the boundary line between this state and the state of New York, and in connection with said commission of the said state of New York, to replace any monuments which may have been dilapidated or been removed on the boundary lines of said states;" and,

WHEREAS, the governor of the state of Pennsylvania, under authority of said act, did duly designate and appoint James Worrall, Christopher M. Gere and Robert N. Torry, to be a commission for the purposes of said act; and,

WHEREAS, James Worrall, the first-named member of said commission, died during the progress of the work on said boundary line; to wit, on April first, eighteen hundred and eighty-five, and the surviving members, to wit: Christopher M. Gere and Robert N. Torry, have continued the work of said commission on the part of the state of Pennsylvania, as authorized by the aforesaid act;

Now, THEREFORE, the said commissioners for and on behalf of their respective states, having duly performed the duties imposed upon them by the said acts, and having examined said boundary line, and replaced in a durable manner the mon-

uments to mark the same in pursuance of the authority duly given as aforesaid, have agreed and do hereby agree as follows :

First. The channel of the Delaware river, from a line drawn across said channel, from a granite monument erected upon the eastern bank of said river in the year eighteen hundred and eighty-two, by the joint boundary commission of the states of New Jersey and New York to mark the western extremity of the boundary line between said states of New Jersey and New York, in a westerly prolongation of said boundary line up and along said channel of said Delaware river as it winds and turns, for a distance of eighty-five miles or thereabouts, to a line drawn east across said river from a granite monument erected upon the west bank of said river in the year eighteen hundred and eighty-four, by H. W. Clarke and C. M. Gere, to mark the eastern extremity of the first line hereinafter described, shall continue to be a part of the boundary or partition line between the said two states ; provided, however, that the limit of territory between the said two states shall be the center of the said main channel, and provided further, that each state shall enjoy and exercise a concurrent jurisdiction within and upon the water of said main channel between the lines of low water at either bank thereof, between the limits hereinbefore mentioned.

Second. The line extending from the Delaware river aforesaid, at a point upon said river fixed and marked with monuments (which have since disappeared), by David Rittenhouse and Samuel Holland, in the month of November, in the year seventeen hundred and seventy-four, west, as the same was surveyed and marked with monuments in the year seventeen hundred and eighty-six, as far as the ninetieth mile-stone, by James Clinton and Simeon De Witt, commissioners on the part of the state of New York, duly appointed for that purpose by the governor of said state, in pursuance of an act of the legislature of said state, entitled "An act for running out and marking the jurisdiction line between this state and the commonwealth of Pennsylvania" passed seventh March, seventeen hundred and eighty-five, and David Rittenhouse, Andrew Porter and Andrew Ellicott, commissioners on the part of the commonwealth of Pennsylvania, duly appointed for that purpose by the supreme executive council of said commonwealth in pursuance of an act of the general assembly of said commonwealth, entitled "An act to authorize and enable the supreme executive council to appoint commissioners to join with the commissioners appointed, or to be appointed, on the part of the state of New York, to ascertain the northern boundary of this state from the river Delaware westward to the north-west corner of Pennsylvania," passed thirty-first March, seventeen hundred and eighty-five, and from the said ninetieth milestone west, as the same was surveyed and marked with monuments and posts in seventeen hundred and eighty-seven by Abraham Hardenbergh and William W. Morris, commissioners on the part of the said state of New York, duly appointed in the place of Simeon De Witt and James Clinton aforesaid, by the Governor of said state in pursuance of the act aforesaid, and the act supplementary thereto, passed by the legislature of said state, twenty-first April, seventeen hundred and eighty-seven, and Andrew Ellicott and Andrew Porter aforesaid, commissioners on the part of the commonwealth of Pennsylvania, to the point which said line is intersected by the line of cession or meridian boundary hereinafter described, which said line so surveyed and marked in the years seventeen hundred and eighty-six and seventeen hundred and eighty-seven has since been acknowledged and recognized by the said two states as a part of the limit of their respective territory and jurisdiction, shall notwithstanding any want of conformity to the verbal description as written in the charter of the province of Pennsylvania, granted to William Penn in the year sixteen hundred and eighty-two, or as recited by the commissioners aforesaid, continue to be the boundary or partition line between the two said states, from the Delaware river aforesaid, to the said point of intersection with the said line of cession ; provided that wherever upon said line the locations of any of the monuments, or posts, erected by the said commissioners in seventeen hundred and eighty-six and seventeen hundred and eighty-seven have been lost and cannot otherwise be definitely fixed, then and in that case, and in every case where it is

required to establish intervening points in said line, a straight line drawn between the nearest adjacent monuments whose localities are ascertained shall be understood to be, and shall be, the true boundary line.

Third. The line of cession, described as a meridian line, drawn from the forty-fifth degree of north latitude, south through the most westerly bent or inclination of Lake Ontario, in the deed of cession to the United States of certain territory claimed by the state of New York, lying west of said line, executed first March, seventeen hundred and eighty-one, by James Duane, William Floyd and Alexander McDougal, delegates in congress of said United States from the said state of New York, in pursuance of an act of the legislature of said state, entitled "An act to facilitate the completion of the articles of confederation and perpetual union among the United States of America," passed February nineteenth, seventeen hundred and eighty, which said territory was afterward conveyed by the United States aforesaid to, and became a part of the territory and jurisdiction of the said commonwealth of Pennsylvania, as the said line was surveyed and marked with posts, and monuments of stone in the year seventeen hundred and ninety, by Andrew Ellicott, who was duly appointed for that purpose by the president of the United States, in pursuance of a resolution of congress, passed nineteenth August, seventeen hundred and eighty-nine, which said line, and its prolongation due north into the waters of Lake Erie until it intersects the northern boundary of the United States aforesaid, have since been acknowledged and recognized by the said two states, as a part of the limit of their respective territory and jurisdiction shall, notwithstanding any possible want of conformity to the verbal description thereof, as contained in said deed of cession, continue to be the boundary or partition line between the two said states, so far as said line so surveyed and marked in seventeen hundred and ninety shall extend.

Fourth. The monumental marks by which the said boundary line, except such portions thereof as may be within the waters of the Delaware river, and Lake Erie, shall hereafter be known and recognized, are hereby declared to be—

I. The original monuments of stone, erected in the years seventeen hundred and eighty-six and seventeen hundred and eighty-seven by the commissioners aforesaid, and in the year seventeen hundred and ninety by Andrew Ellicott aforesaid, as the same have been restored and re-established in their original positions, or have been replaced by granite monuments, erected in the years eighteen hundred and eighty-one, eighteen hundred and eighty-two, eighteen hundred and eighty-three, eighteen hundred and eighty-four and eighteen hundred and eighty-five, by H. Wadsworth Clarke, surveyor on the part of New York, and Christopher M. Gere, surveyor on the part of Pennsylvania, duly appointed by the parties hereto.

II. The new monuments of granite, erected in the years eighteen hundred and eighty-one to eighteen hundred eighty-five, inclusive, by the aforesaid surveyors, at intervals of one mile, more or less, and numbered consecutively, along said line originally surveyed and marked in the years seventeen hundred and eighty-six and seventeen hundred and eighty-seven, beginning from the Delaware river, and severally marked on the north side with the letters "N. Y.," and on the south side with the letters "PA.," and along said line originally surveyed and marked in the year seventeen hundred and ninety, beginning at the shore of Lake Erie, and severally marked on the east side with the letters "N. Y.," and on the west side with the letters "PA."

III. The new monuments of granite erected by the said surveyors, in the years eighteen hundred and eighty-one to eighteen hundred and eighty-five, inclusive, aforesaid, at intervening points on said line, and at its intersection with public roads, railroads and rivers, and at other points, and severally marked on the one side with the letters "N. Y.," and on the other side with the letters "PA."

IV. A large monument of granite, erected in the year eighteen hundred and eighty-four by the said surveyors six hundred feet west of the center of the Delaware river in the said line originally fixed in the year seventeen hundred and eighty-six, to mark its eastern terminus; a large monument of granite erected in

the year eighteen hundred and eighty-four by the said surveyors in the said line or meridian boundary, as originally fixed in the year seventeen hundred and ninety one hundred feet north from its intersection with the line originally surveyed as aforesaid, in the year seventeen hundred and eighty-seven, which said point of intersection is marked by a small monument of granite buried in the center of the highway, in eighteen hundred and eighty-four by the said surveyors; and also a large monument of granite erected in the year eighteen hundred and sixty-nine by John V. L. Pruyn, George R. Perkins, Samuel B. Woolworth, and George W. Patterson on the part of the state of New York, and William Evans on the part of the state of Pennsylvania, four hundred and forty feet south of the original monuments erected in the year seventeen hundred and ninety, by Andrew Ellicott aforesaid, upon the south shore of Lake Erie, in the line originally surveyed and marked by him as aforesaid.

Fifth. The field book of said surveyors containing the notes of the re-surveys along said line in the years eighteen hundred and seventy-seven, eighteen hundred and seventy-eight and eighteen hundred and seventy-nine; also the "record of monuments" prepared by said surveyors, containing the descriptions of the locations of the several monuments erected by them, and of the witness marks thereto; also the maps of said line, and the vicinity thereof, showing the locations of said monuments; and also the "diary of operations" of said surveyors under the direction of the parties hereto; the same having been duly authenticated by the signature of the said surveyors, and the several documents and books of record containing the transactions of the parties hereto; all of which being placed on file in the office of the secretary of state of New York, and the office of the secretary of international affairs of Pennsylvania, shall constitute the permanent and authentic records of said boundary line, and are hereby adopted by the parties hereto, and made a part of this agreement.

Sixth. This agreement shall become binding upon the two states when ratified by the legislatures thereof, respectively, and when confirmed by the congress of the United States.

In witness whereof the said commissioners have hereunto set their hands and seals in duplicate, the twenty-sixth day of March, eighteen hundred and eighty-six, aforesaid.

Executed in the presence of witnesses;

As to Henry R. Pierson: Edward I. Devlin, — H. R. Pierson, L. S.

As to E. W. Leavenworth. H. W. Clarke, — E. W. Leavenworth, L. S.

As to Chauncey M. Depew; Edward I. Devlin, — Chauncey M. Depew, L. S.

As to C. M. Gere. A. D. Birchard, — C. M. Gere, L. S.

As to Robert N. Torry. Andrew Thompson, — Robert N. Torry, L. S.

Duty of governor of this state. Agreement by Pennsylvania, how filed and recorded.

§ 2. The governor of this state is hereby authorized and requested to transmit a copy of this act to the governor of the state of Pennsylvania, and upon receiving notice of the adoption of such agreement by the legislature of said state of Pennsylvania, he shall cause such notice to be filed in the office of the secretary of state, together with the duplicate original of said agreement; and the duplicate permanent and authentic records of said boundary line as described in said agreement; and the said secretary of state shall cause such agreement to be recorded in the proper book of record in his said office.

Governor, when to communicate with congress, and request its approval. Boundary, when deemed established. § 3. Upon receiving notice of the adoption of said agreement by the said state of Pennsylvania, the governor of this state is authorized, in concurrence with the governor of the said state of Pennsylvania, to communicate with congress the action of the two states in relation to said boundary, and to request the approval of congress to the agreement entered into by the two states; and upon such approval the said agreement shall become fully binding and operative, and the said boundary line between this state and the state of Pennsylvania shall be fixed and established as specified and provided in said agreement.

Duty of secretary of state of this state. § 4. The secretary of state is hereby authorized and required, upon the filing of the said documents in his office, to cause to be deposited in the office of the county clerk of each county adjoining the said boundary line between this state and the state of Pennsylvania, a transcript from the maps showing the location of the monuments, and copies of the "record of monuments," so far as said maps and records relate to the portion of said boundary adjoining each of such counties; such transcripts and copies to be properly authenticated by his signature.

L. 1887, Chap. 69—An act for the settlement of territorial disputes in regard to the lands under water in Raritan Bay.

Boundary commissioners to be appointed. SECTION 1. The governor shall appoint three commissioners who shall have full power, on the part of the state of New York, to meet the commissioners appointed, or to be appointed, by the state of New Jersey, and with them locate and mark out by proper monuments and buoys the true boundary line between the two states in lands under water in Raritan Bay.

Map of line to be filed. § 2. The said commissioners, within one year from the passage of this act, shall file with the secretary of the state of New York a map showing such boundary line.

Expenses. § 3. The expenses of the said commissioners, not exceeding one thousand dollars, shall be paid by the treasurer upon the warrant of the comptroller, after first being approved by the governor.

[Powers of the commissioners extended to New York bay, the Kill von Kull and the Arthur Kill, by L. 1888, Chap. 166.]

TITLE I.

TITLE II.

Of the Sovereignty and Jurisdiction of the State.

- Sec. 1.** To what places they extend.
 2. Duty of governor and subordinate officers to defend them.
 3. Governor to employ counsel to defend suits concerning the sovereignty and jurisdiction of the state.
 4. District attorney to report to governor persons intruding upon lands, under pretence of title inconsistent therewith.
 5. Such persons to be removed by sheriff.

Extent. SECTION 1. The sovereignty and jurisdiction of this state extend to all the places within the boundaries thereof, as declared in the preceding title; but the extent of such jurisdiction over places that have been or may be ceded to the United States, shall be qualified by the terms of such cession.

7 Abb. N. C., 96.

[Compiled from documents in the office of the secretary of state.]

§ 2. It shall be the duty of the governor, and of all the subordinate officers of the state, to maintain and defend its sovereignty and jurisdiction. To be main-
tained.

[Founded on 1 R. L., 127; ib., 238; and L. 1819, p. 302.]

§ 3. If any suit shall be instituted against this state, or against any person deriving title therefrom, to recover any lands within this state, under pretence of any claim inconsistent with its sovereignty and jurisdiction, the governor, at the expense of this state, shall employ counsel and provide for the defence of such suit. Suits to be
defended.

[Founded on 1 R. L., 127; ib., 238; and L. 1819, p. 302.]

§ 4. If any person, under such pretence, shall intrude upon any of the waste or ungranted lands of this state, it shall be the duty of the district attorney of the county, immediately to report the same to the governor, who shall thereupon, by a written order, direct the sheriff of the county to remove from said lands the person so intruding. Intruders
on public
lands.

[Founded on 1 R. L., 127; ib., 238; and L. 1819, p. 302.]

§ 5. The sheriff shall execute such order; and in case of resistance made or threatened, he may call to his aid the power of the county, as in cases of resistance to the writs of the people. [66]
Duty of
sheriff.

[Supplementary Title.]

TITLE 2^A.

Of the Arms of the State.

L. 1882, Chap. 190 — An act to re-establish the original arms of the state of New York and to provide for the use thereof on the public seals.

Description of the arms of the state. SECTION 1. The device of arms of this State as adopted March sixteenth, seventeen hundred and seventy-eight, is hereby declared to be correctly described as follows:

CHARGE. Azure, in a landscape, the sun in fess, rising in splendor, or behind a range of three mountains, the middle one the highest, in base, a ship and sloop under sail, passing and about to meet on a river, bordered below by a grassy shore fringed with shrubs, all proper.

CREST. On a wreath, azure and or, an American eagle, proper rising to the dexter, from a two-thirds of a globe terrestrial showing the North Atlantic ocean with outlines of its shores.

SUPPORTERS. On a quasi compartment formed by the extension of the scroll.

DEXTER. The figure of Liberty proper, her hair disheveled and decorated with pearls, vested azure, sandaled gules, about the waist a cincture or, fringed gules, a mantle of the last depending from the shoulders behind to the feet, in the dexter hand a staff ensigned with a Phrygian cap or, the sinister arm embowed, the hand supporting the shield at the dexter chief point, a royal crown by her sinister foot dejected.

SINISTER. The figure of Justice proper, her hair disheveled and decorated with pearls, vested or, sandaled, cinctured and mantled as Liberty, bound about the eyes with a fillet proper, in the dexter hand a straight sword hilted or, erect, resting on the sinister chief point of the shield, the sinister arm embowed, holding before her her scales proper.

MOTTO. On a scroll below the shield argent, in sable, EXCELSIOR.

Secretary of state to cause seals to be engraved. § 2. The secretary of state shall cause to be engraved upon metal two and one-half inches in diameter, the device of arms of this state accurately conformed to the description of the same given in section first, and the arms so engraved shall be surrounded with the legend. The great seal of the state of New York, and it alone, shall be used as the great seal of the state. He also shall cause to be engraved on metal, the privy seal for the office of the governor, and seals for the court of appeals, the secretary of state, the comptroller, the treasurer, the state engineer and surveyor and the adjutant-general, which shall be two inches and a quarter in diameter and shall contain the same device of arms; and each of said seals shall have an inscription on its face surrounding the arms, containing severally the name and title of each office. He shall also provide in the same manner for all other offices at the capital which are required to have in use official seals.

Size. § 3. The seals of all state officers other than those named in the preceding section, and which are required or authorized by statute to use a seal, shall conform to the same device described in the first section, shall be one inch and three-quarters in diameter, and shall be surrounded with the appropriate name of the office.

To be used from and after January 1, 1883. § 4. From and after the first day of January, eighteen hundred and eighty-three, the seals provided as aforesaid by the secretary of state shall be used for all the requisite purposes of these offices. The seals of the several offices which can no longer be used shall be delivered to the secretary of state, shall be by him defaced with a suitable mark and deposited with the ancient seals in the state library.

To be painted in colors and hung on walls of executive chamber, etc. § 5. The device of arms of the state corresponding to the blazon hereinbefore given shall be painted in colors upon wood or canvas, and hung upon the walls of the executive chamber, the court of appeals, the office of the secretary of state and of the senate and assembly chambers.

No other pictorial devices to be used. § 6. No pictorial devices other than the arms of the state shall be used in the public offices at the capital for letter headings and envelopes used for official business. Persons printing and circulating public documents under the authority of the state, when they use a vignette, shall place upon the title pages of the documents the standard device of the state arms without alterations or additions.

When flags to be displayed. § 7. During the hours when the legislature is in session, the state flag bearing the arms of the state shall be displayed from the capitol together with the flag of the United States.

Repeal. § 8. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

TITLE III.

Of the Places Ceded to the United States.

- SEC.** 1. Turtle hill, a tract at Montock point, Suffolk county; effect of the cession.
 2. Tract of ten acres at Eaton's neck in the town of Huntington, Suffolk county; effect of the cession.
 3. Bedlow's, Ellis and Governor's island, in and about the harbor of New York; effect of the cession.
 4. Little and Great Gull islands in the county of Suffolk; effect of the cession.
 5. Sand's point in the town of North Hempstead, Queens county; effect of the cession.
 6. Tract at Bluff point on Staten Island; effect of the cession.
 7. Two tracts of land and water in the city of New York; effect of the cession.
 8. Tract of land covered with water at Wallabout bay; effect of the cession.
 9. Half of an acre in Buffalo, Erie county; effect of the cession.
 10. Tract in Greenbush, Rensselaer county; effect of the cession.
 11. Thirty acres of land under water at New Utrecht, Kings county; effect of the cession.
 12. Tract of land in the village of Rome, Oneida county; effect of the cession.
 13. Lots 61, 62, 63, 64, 65 and 66, at Rouse's Point, Clinton county; effect of the cession.
 14. Tract of five acres at head of Galoo island in Lake Ontario; effect of the cession.
 15. Island point, near Rouse's Point, on Lake Champlain; effect of the cession.
 16. Tract of six acres at mouth of Oswego river, in Oswego river; effect of the cession.
 17. Tract of three acres and one hundred and fifteen rods, at mouth of Genesee river, in the town of Greece, county of Monroe; effect of the cession.
 18. Tract in Sodus in the county of Wayne; effect of the cession.
 19. Effect of the cession as to lands described in the five last sections.
 20. Tract of land at Oldfield, on Long Island sound, Suffolk county; effect of the cession.
 21. Two tracts lying in New Utrecht, in Kings county; effect of the cession.
 22. Tract of land in Islip, Suffolk county; effect of the cession.
 23. Tract of land in Haverstraw, Rockland county; effect of the cession.
 24. Effect of the cession as to lands described in the four last sections.
 25. Tract of land in Cornwall, Orange county; effect of the cession.
 26. Tract at Tibbits' point, in Lyme, Jefferson county.
 27. Tract at the west end of Plumb island, Suffolk county.
 28. Tract in the town of Westfield and county of Richmond.
 29. Tract on Staten island.

SECTION I. The United States have jurisdiction over a tract of land at Montock point, in the county of Suffolk, known by the name of Turtle hill, and bounded as follows: "Beginning at the beach, and at a rock laying on a hommock, at the bottom of the said hill, and runs thence north eighty-two degrees west, eleven chains and fifty-eight links; thence south five degrees west, five chains; thence south fifteen degrees east, nine chains, to a rock marked John Champlain, 1788; thence on the same course to low water mark; thence northeasterly along low water mark, until the point of beginning bears north, eighty-two degrees west; thence to the place of beginning;" such jurisdiction having been ceded for the erection of a light-house on said tract, by the act entitled "An act to cede the jurisdiction of certain lands on Montock point to the United States of America, for the purposes therein mentioned," passed December 18th, 1792. The jurisdiction so ceded does not

Montock
point, in
Suffolk
county.

TITLE 3.

[67]

prevent the execution on said tract, of any process, civil or criminal, under the authority of this state, except so far forth as such process may affect the real or personal property of the United States within the said tract; and the lands and tenements within said tract are forever exonerated from all taxes which may be laid under the authority of this state.

[1 R. L., 188.]

In Hunt-
ington, in
same
county.

§ 2. The United States have also jurisdiction over a tract of ten acres at Eaton's neck, in the town of Huntington, in the county of Suffolk, such jurisdiction having been ceded for the erection of a light-house on said tract, by the act entitled "An act to cede the jurisdiction of certain lands in this state to the United States," passed April 6th, 1798. The said tract is described in a certificate of the president of the United States, bearing date the second day of July, one thousand seven hundred and ninety-eight, and filed in the office of the secretary of this state, pursuant to said act, as follows: "All that certain lot, piece or parcel of land, lying and being at the northern extremity of Eaton's neck, in the town of Huntington, in the county of Suffolk, beginning at the northernmost point thereof, upon the shore at high water, which is distant from a stone fixed in the ground and bears north twelve degrees west, two chains and twenty-four links; thence along the high water line of the shore south seventy-five degrees west, twelve chains seventy-five links; thence south twelve degrees east, two chains forty-five links to a stone fixed in the ground; thence south twelve degrees east, two chains fifty-eight links; thence south thirty-six degrees east, two chains and seventy links; thence south sixty-three degrees east, one chain eighty-two links; thence north seventy degrees east, ten chains seventeen links; thence north twelve degrees west, to the stone first mentioned five chains sixty-two links; thence north twelve degrees west, two chains and twenty-four links to the place of beginning, containing ten acres." Such cession is not to be construed to prevent the execution of any process, civil or criminal, issuing under the authority of this state; and the lands so ceded are forever exonerated and discharged from any taxes to be laid under the authority of this state.

[1 R. L., 189, and documents in secretary's office.]

In the har-
bor of New
York.

§ 3. The United States have also jurisdiction over three certain islands in and about the harbor of New York, viz.: Bedlow's island and Ellis or Oyster island, bounded on all sides by the waters of the Hudson river, and Governor's island, bounded on all sides by the waters of the East river and Hudson river; such jurisdiction having been ceded by the act entitled "An act to cede to the United States the jurisdiction of certain islands situate in and about the harbor of New York," passed February 15, 1800. The jurisdiction so ceded does not prevent the execution on the said islands of any process, civil or criminal, issuing under the authority of this state.

[Ib.]

§ 4. The United States have also jurisdiction over Great Gull island, and Little Gull island, situated in the county of Suffolk, and bounded on all sides by the waters of the East river; such jurisdiction having been ceded for the erection of a light-house on one of the said islands, by the act entitled "An act to cede the jurisdiction of Great Gull island and Little Gull island to the United States of America, for the purpose therein mentioned," passed March 26, 1803. The jurisdiction so ceded does not prevent the execution on the said islands, of any process, civil or criminal, under the authority of this state, except so far forth as such process may affect the real or personal property of the United States within the said islands.

[Ib., 190.]

§ 5. The United States have also jurisdiction over a tract of five acres at Sands or Watch point, on Long Island, situated in the town of North Hempstead, and county of Queens, such jurisdiction having been ceded for the erection of a light-house on the said tract, by the act entitled "An act to cede the jurisdiction of certain land in this state to the United States," passed February 17, 1806, and the act entitled "An act to facilitate the purchase of lands, for the erection of a light-house at North Hempstead," passed April 11, 1808. The said tract is bounded as follows: "Beginning on the easterly side of said point, at a place or point in the line of ordinary high water mark, being north fifty-six degrees east, from a large walnut or hickory tree, marked on three sides, standing upon the upland, and running thence (from the said point in high water mark) across the said point of land on a course south fifty-six degrees west, so as to pass about four feet southerly of a small marked buttonwood tree, standing on the bank, and passing through the centre of the said walnut or hickory tree marked on three sides, and through the centre of a high white oak tree marked on two sides, to ordinary high water mark on the westerly side of said point of land; and thence to the line of ordinary high water mark to and around the said point of land to the point or place of beginning, in the line of ordinary high water mark on the easterly side of said point of land, containing five acres of land, be the same more or less." The jurisdiction so ceded does not prevent the execution on said tract, of any process, civil or criminal, issuing under the authority of this state.

[1 R. L., 191 and 195, and documents in office of secretary of state.]

§ 6. The United States have also jurisdiction over a tract at Bluff point, on Staten island, such jurisdiction having been ceded for the erection of fortifications, by the act entitled "An act to cede the jurisdiction of certain lands in this state to the United States," passed March 20, 1807.

[Ib., 192. The tract has not been designated by any instrument of acceptance, or by any act of possession.]

§ 7. The United States have also jurisdiction over two tracts of land and water in the city of New York, the use of and jurisdiction over

TITLE 3.
In the East river.

[68]

Sands or Watch point, in Queens county.

Bluff point, Staten Island.

In the city of New York.

TITLE 3.

[69]

the same having been ceded to them for the safety and defence of the city of New York, by certain commissioners acting in behalf of this state, pursuant to an act entitled "An act to cede the jurisdiction of certain lands in this state to the United States," passed March 20th, 1807, and an act supplementary thereto, passed March 18th, 1808. One of the said tracts is described in the deed of cession, executed by the commissioners, and bearing date the sixth day of May, one thousand eight hundred and eight, as follows: "Beginning in the Hudson river at a point in the continuation of the south line of Hubert street, bearing north seventy-nine degrees and thirty minutes west, from the southeasterly corner of Hubert and West streets, distant two hundred feet westerly from the permanent line of West street, which said permanent line bears south ten degrees and fifteen minutes west, from the southwestly corner of the state prison wall; thence north ten degrees and fifteen minutes east, parallel to the said permanent line, three hundred and five feet, to a point in the continuation of the north line of Laight street; thence north seventy-nine degrees and thirty minutes west, three hundred feet into the Hudson river; thence south ten degrees and fifteen minutes west, three hundred and five feet to a point in the continuation of the south line of Hubert street aforesaid; thence south seventy-nine degrees and thirty minutes east, three hundred feet, to the place of beginning." The other of the said tracts is described in said deed as follows: "Beginning at a point in the line of the present battery, six feet southerly of the most southern external angle formed by the main battery, and the present bastion, which said point is four hundred ninety-seven feet eleven inches on a course south thirty-six degrees and twenty minutes west, from the southeasterly corner of the brick house situate at the corner of Marketfield street and Broadway, now or lately belonging to Robert Kennedy, and is also on a course south eighty-nine degrees and ten minutes west, two hundred and sixty-four feet one inch from the northwesterly corner of Bridge and State streets; thence north sixteen degrees and ten minutes west, three hundred and ten feet; thence south sixty-four degrees west, five hundred feet; thence south twenty-six degrees east, three hundred feet; thence north sixty-four degrees east, four hundred and twenty-five feet, to the place of beginning: all of which courses are to be run as the magnetic needle now points." The United States are to retain such use and jurisdiction so long as the two tracts above described shall be respectively used and applied to the defence and safety of the city and port of New York, and no longer. The jurisdiction so ceded does not prevent the execution on either of those tracts, of any process, civil or criminal, under the authority of this state; nor the operation within the same of the laws of this state, or the ordinances of the common council of the city of New York, passed before the date of said deed, for the general regulation of the civil police of the said city, and not incompatible with the purpose for which such cession was made.

[Deed cession in secretary's office.]

[70]
In the Wal-
labout bay.

§ 8. The United States have jurisdiction over a tract of land covered with the waters of the East river at the Wallabout bay, and

adjoining the navy yard of the United States, the use of and jurisdiction over the same having been granted to them for the defence and safety of the city of New York, by the commissioners, and pursuant to the acts before mentioned. The said tract is described in the deed of cession executed by the commissioners, and bearing date the third day of April, one thousand eight hundred and ten, as follows: "Beginning at the southerly end of the dam of the pond at the navy yard, at a point designated on the map or chart comprising a delineation of the said parcel of land hereunto annexed, by the letter A, from which point the easterly corner of the commander's house at the navy yard bears north twenty-nine degrees and forty-five minutes west, the steeple of the reformed Dutch church at Brooklyn bears south sixty-two degrees west, and the south corner of the dwelling-house of Jeremiah Johnson bears north eighty degrees and twenty-five minutes east, and running from the said point designated as aforesaid by the letter A, north fifty-two degrees and thirty minutes east, two thousand two hundred and ninety feet to a point from which the north corner of the dwelling-house of the said Jeremiah Johnson bears south seventy degrees thirty minutes east, designated by the letter B, in the said map or chart, and running from the said last-mentioned point north seven degrees east, one thousand five hundred and eighty feet, to a point from which the southwest corner of Thompson's house on the Long Island shore bears north seventy-six degrees and forty-five minutes east, the steeple of the reformed Dutch church in Brooklyn bears south forty-eight degrees and twenty-five minutes west, and the steeple of St. Paul's church in the city of New York bears north seventy-nine degrees west, and designated in the said map or chart by the letter C; and running from the said last mentioned point south seventy degrees west, two thousand four hundred and eighty feet to the north corner of the navy yard, designated in the said map or chart by the letter D; and thence southerly along the navy yard to the place of beginning; all which courses and bearings are taken as the magnetic needle now points." The United States are to retain such use and jurisdiction so long as said tract shall be used and applied to the defence and safety of the city and port of New York, and no longer. The free and common use of the waters not appropriated by the United States for wharves or fortifications to the eastward of the navy yard of the United States, and the westward of the east boundary line of the land above described, is reserved to the people of this state. The jurisdiction so ceded does not prevent the execution on the said tract of any process, civil or criminal, under the authority of this state; nor the operation within the same, of the laws of this state, or the ordinances of the common council of the city of New York passed before the date of said deed, for the general regulation of the civil police of the said city, and not incompatible with the purposes for which such cession was made.

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[Deed of cession in secretary's office.]

§ 9. The United States have also jurisdiction over a tract of half an acre in the town of Buffalo in the county of Erie, such jurisdiction having been ceded to the United States for the erection of a

At Buffalo,
in Erie
county

TITLE 3.

light house on said tract, by the act entitled "An act to cede the jurisdiction of certain lands on Lake Erie to the United States, for the purposes therein mentioned," passed April 4, 1811. The said tract is described in a deed thereof, executed by Joseph Ellicott, as attorney for the grantors, to the United States as follows: "All that certain tract of land, situate, lying and being in the village of Buffalo, in the county of Niagara and state of New York, being part or parcel of a certain township which, on a map or survey of divers tracts or townships of land made for the proprietors by Joseph Ellicott, surveyor, is distinguished by township number eleven, in the eighth range; beginning at a stone in the northern bounds of outer lot number thirty-six, in said village, standing north forty-eight degrees east, fifty-four links from the northwest corner of said lot, thence bounding on land conveyed to Joseph and Benjamin Ellicott, by deed bearing date the twenty-ninth day of February in the year of our Lord one thousand eight hundred and twelve, north forty-eight degrees east, six chains and one link to the southwestern bank of Buffalo creek; thence bounding on the said bank of the said creek, north eighty-seven degrees west, one chain and twenty-seven links; thence by a line parallel to the northern bounds of said land conveyed to Joseph and Benjamin Ellicott by deed as aforesaid, south forty-eight degrees west, five chains and eleven links to a stone, and thence south forty-two degrees east, ninety links, to the place of beginning, containing half an acre, be the same more or less." Such cession does not prevent the execution of any process at law under the authority of this state, except against the real or personal property of the government of the United States. The said tract is exonerated and discharged from any taxes which may be laid or imposed under the authority of this state, while said tract shall remain the property of the government of the United States, and while the same shall be appropriated to the above mentioned purpose, and not otherwise.

[1 R. L., 196; deed in treasury department of U. S.]

In Green-
bush, Rensselaer
county.

[73]

§ 10. The United States have also jurisdiction over a certain farm, piece or parcel of land, situate, lying and being in the town of Greenbush in the manor of Rensselaerwyck, county of Rensselaer and state of New York, which was leased by Stephen Van Rensselaer to Christopher Yates on the sixteenth day of August one thousand seven hundred and ninety, and is bounded as follows, to wit: "Beginning at a stake and stones standing at the distance of twelve chains and forty-five links from the southwest corner of the kitchen on the premises, on a course north forty-nine degrees thirty minutes west, and running thence north forty-nine degrees and thirty minutes west, one chain and six links; thence north fifty-nine degrees forty-five minutes west, six chains and seventy-eight links; thence north twenty-nine degrees east, three chains and seventy-three links; thence north sixteen degrees east, nine chains and twenty-four links; thence south sixty degrees east, seven chains and twenty links; thence south thirty-four degrees east, one chain; thence south fifty degrees east, two chains; thence north fifteen degrees east, twenty-nine chains; thence south thirty-nine degrees

TITLE 3.

east, thirty-eight chains and twelve links; thence due east ten chains; thence south eleven degrees thirty minutes east, forty-eight chains and eighty links; thence due west, thirty-two chains and twenty links; thence due north ten chains; thence north twenty-six degrees west, five chains fifty-three links; thence south thirty-seven degrees six chains and forty-seven links; thence north eighteen degrees west, two chains and twenty-seven links; thence north ten degrees west, three chains and seventy-one links; thence north two degrees west, three chains and fifty-eight links; thence north seventy degrees east, one chain and eighteen links; thence north eighteen degrees west, four chains and eighty-seven links; thence north seventy-seven degrees and forty minutes west, two chains and ninety-seven links; thence south fifteen degrees and forty minutes west, twelve chains and thirty-one links; thence south nine degrees east, eight chains and thirty-four links; thence south fifty-seven degrees east, two chains and forty-four links; thence south seventeen degrees west, nine chains; thence north sixty-eight degrees west, twenty-two chains and thirty links; thence due south four chains and forty links; thence north sixty degrees east, six chains; thence north twenty-nine degrees west, six chains and twenty links; thence north thirteen degrees west, three chains; thence south sixty-eight degrees east, five chains and twenty-one links; thence south thirty-two degrees eighteen minutes east, six chains and forty links; thence south three degrees forty-two minutes west, one chain eighty links; thence south eighty-nine degrees forty-eight minutes east, four chains thirty links; thence north three degrees forty-two minutes east, nine chains and ninety links; thence south eighty-six degrees eighteen minutes east, six chains and twenty links; thence north three degrees forty-two minutes east, fourteen chains and fifty links; thence north eighty-six degrees eighteen minutes west, six chains and twenty links; thence south three degrees forty-two minutes west, three chains and eighty links; thence north forty-two degrees and eighteen minutes west, ten chains and eighty links, to the beginning, containing two hundred and sixty-one acres and three tenths of an acre;" such jurisdiction having been ceded for the erection of magazines, arsenals, barracks and other needful buildings, by the act entitled "An act further to provide for the defence of the frontiers, and for other purposes," passed June 12, 1812. The jurisdiction so ceded does not prevent the execution upon the said tract, of any process, civil or criminal, issuing under the authority of this state, nor the operation of the public laws of this state upon the said tract, so far as the same may not be incompatible with the free use and enjoyment of the said premises by the United States, for the purpose above specified.

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[2 R. L., 551, 552, §§ 16 and 17.]

§ 11. The United States have also jurisdiction over thirty acres of land covered with water, in the town of New Utrecht, in the county of Kings, on the easterly side of the Narrows, at the entrance into the bay of New York, and upon a reef, commonly called Hendrick's reef, the same having been ceded for the defence and safety of the city and port of New York, by the commissioners, and pur-

At New
Utrecht,
Kings
county.

TITLE 8. suant to the acts before mentioned. The said tract is described in the deed of cession, executed by the said commissioners, and bearing date the sixth day of November, one thousand eight hundred and twelve, as follows: "All that certain parcel of land covered with water, situate in the town of New Utrecht and county of Kings, and on the easterly side of the Narrows, at the entrance into New York bay, and upon a reef commonly called Hendrick's reef, which said parcel of land is comprised in the following boundaries, that is to say: Beginning at the northerly corner thereof, by land of Denyse D. Denyse, at high water mark, and near the southeasterly side of a large rock, and running from thence south twenty-four degrees and thirty minutes east, seven chains and seventeen links along said high water mark to the land of Jaques Cortelyou; thence south sixty-four degrees and forty-five minutes west, twenty-four chains, to the southerly corner of the hereby granted premises; thence north twenty-five degrees and fifteen minutes west, seven chains and seventeen links; thence north ten degrees and thirty minutes west, eleven chains and seventy links, to the westerly corner of the hereby granted premises; thence south eighty-six degrees east, twenty-four chains to the place of beginning, containing thirty acres, two roods and four perches; all which courses and bearings are taken as the magnetic needle now points." The United States are to retain such use and jurisdiction so long as the said tract shall be used and applied to the defence and safety of the city and port of New York, and no longer. The free and common passage over the waters aforesaid about the said tract, not actually appropriated by the United States for wharves, bridges, fortifications or public obstructions, is reserved to the people of this State. The jurisdiction so ceded does not prevent the execution on the said tract of any process, civil or criminal, under the authority of this state, nor prevent the laws of the state, not incompatible with the purposes for which such cession was made, from operating within the bounds of said tract.

[Deed of cession in secretary's office.]

[74]
At Rome,
Oneida
county.

§ 12. The United States have also jurisdiction over a tract of land at the village of Rome in the county of Oneida; and over a certain other tract in the town of Watervliet, in the county of Albany, such jurisdiction having been ceded for the defence and safety of this state, by the commissioners before mentioned, pursuant to the act, entitled "An act to authorize the cession of the jurisdiction of certain lands in the northern and western counties of this state to the United States, and to extend the powers of the commissioners appointed by the act entitled 'an act to cede the jurisdiction of certain lands in this state to the United States, passed March 20th, 1807,'" passed March 31st, 1815. The first of said tracts is described in the deed of cession executed by the commissioners, and bearing date the fifth day of April, one thousand eight hundred and sixteen, as follows: "All that certain piece or parcel of land situate in the village of Rome, county of Oneida, and state of New York, on which the arsenal, armory and other buildings belonging to the United States, are erected, distin-

TITLE 2.

guished as lots number four, five, six, thirteen, fourteen, and fifteen, in block number six of said village, lying contiguous and forming one entire lot, and is bounded as follows, to wit: Beginning at the northwesterly corner of lot number seven, in said block number six, and running thence westerly on the line of Dominick street, north thirty-six degrees and twenty minutes west, in one thousand seven hundred and ninety-six, one hundred and ninety-eight feet, to the northeasterly corner of lot number three in said block number six; thence at right angles with Dominick street, southerly, four hundred and thirty-two feet, to the south bank of the canal connecting Wood creek with the Mohawk river; thence easterly on the north bank of said canal to the southwestly corner of lot number twelve in said block number six, two hundred and sixteen feet; thence running northerly at right angles with Dominick street, to the place of beginning, three hundred and forty feet. Also, lot number five in block number seven, bounded as follows, to wit: Beginning at the southwestly corner of lot number six in block number seven, and running thence westerly on the line of Dominick street, sixty-six feet, to the southeasterly corner of lot number four, in said block number seven; thence northerly at right angles with Dominick street, two hundred feet, to the southerly line of Stone alley; from thence easterly on the southerly line of Stone alley, and parallel to Dominick street, sixty-six feet; from thence at right angles with Dominick street, two hundred feet, to the place of beginning." The second of said tracts is described in said deed as follows: "And also all that certain piece or parcel of land situate in the town of Watervliet, in the county of Albany, and state aforesaid, at a place called Gibbonsville, on which is also erected an arsenal and other buildings belonging to the United States, bounded as follows, to wit: Beginning at an elm tree standing on the bank of Hudson's river in the village of Gibbonsville, thence running by the true meridian, (the variation of the magnetic needle being calculated at five degrees and thirty minutes to the west of north) north seventy-five and a half degrees west, eleven chains and thirty-five links; thence south, fourteen and a half degrees west, three chains and eighty-six links; thence north seventy-five and a half degrees west, seven chains and seventy-five links; thence south fourteen and a half degrees west, three chains; thence south seventy-five and a half degrees east, seven chains and seventy-five links; thence south fourteen and a half degrees west, three chains and seventy-one links; thence south seventy-five and a half degrees east, eleven chains and thirty-five links, to the bank of Hudson's river; thence south seventy-five and a half degrees east, to the main channel of the said river; thence northerly along said channel to intersect a line drawn south seventy-five and a half degrees east from the first station; and then north seventy-five and a half degrees west, to the place of beginning." The United States are to retain such jurisdiction so long as said tract shall be applied to the use of providing for the defence and safety of the said state, and no longer. The jurisdiction so ceded does not prevent the execution on the said tracts of any process, civil or criminal, under the authority of this state, nor prevent the laws of this state, not incompatible with the purposes for which

At Water-
vliet,
Albany
county.

[75]

TITLE 3. such cession was made, from operating within the bounds of said tracts.

[Deed of cession in secretary's office.]

At Rouse's point, Clinton county.

§ 13. The United States have also jurisdiction over lots number sixty-one, sixty-two, sixty-three, sixty-four, sixty-five and sixty-six, of the eighty acre lots in the tract granted to the Canadian and Nova Scotia refugees, containing in the whole four hundred and eighty acres, and also over a tract of nine acres three roods and five poles, being the east end or front of lot number sixty in the same tract; which tracts are situated at Rouse's Point, in the county of Clinton, on the west bank of Lake Champlain; such jurisdiction having been ceded for the defence and safety of this state, by deed dated the sixth day of July, one thousand eight hundred and eighteen, and executed by certain commissioners acting in behalf of this state, pursuant to the act entitled "An act to authorize the cession of the jurisdiction of certain lands in the northern and western counties of this state to the United States, and to extend the powers of the commissioners appointed by the act entitled 'An act to cede the jurisdiction of certain lands in this state to the United States,' passed March 20, 1807," passed March 31, 1815. The United States are to retain such jurisdiction so long as said tracts shall be applied to the use of providing for the defence and safety of the said state, and no longer. The jurisdiction so ceded does not prevent the execution on the said tracts of any process, civil or criminal, under the authority of this state, nor prevent the laws of the state, not incompatible with the purposes for which such cession was made, from operating within the bounds of said tracts.

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[Laws of 1815, p. 118, and deed of cession.]

Galoo Island, Lake Ontario.

§ 14. The United States have also jurisdiction over a tract of five acres on the head of Galoo island, in Lake Ontario, "commencing seventy-five links south, forty-five degrees east, from a large oak tree standing on the lake shore at a stake and stones marked U. S. from thence south forty-five degrees west, twelve chains and ninety links to a cedar stake and stones marked U. S. from thence northwesterly along the lake shore eleven chains and eighty links to a point, on the edge of a large flat rock two chains due south from the centre of the spot fixed on for a light-house, from thence north forty-five degrees west, two chains and sixty-five links on a flat rock, from thence north forty-five degrees east, five chains and eighty links to the place of beginning;" the title to and jurisdiction over the same having been ceded by the commissioners of the land-office for the erection of a light-house, pursuant to the act entitled "An act to cede the jurisdiction of certain lands on Lake Ontario to the United States, and for other purposes," passed April 21, 1818.

[Laws of 1818, p. 113, §§ 1 & 2, and records of the land-office.]

Island in Lake Champlain.

§ 15. The United States have also jurisdiction over a small island near Rouse's Point, on Lake Champlain, called Island point; and also over the land under the water opposite to lots number sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five and sixty-six, of the small lots in the tract of land heretofore laid out for the Canadian and Nova Scotia refugees: "Beginning on the west shore of

TITLE 3.

Lake Champlain, in the line run for the north bounds of this state, and running thence east, to the distance of five hundred feet from low water's mark; thence southerly, keeping at the said distance of five hundred feet from low water's mark of said shore of Lake Champlain, and the shore of said island, until a west course will strike the southwest corner of the said lot number sixty-six, then west to the same, and then northerly, following the shore of the said lake, and the shore of the said island, to the place of beginning;" the title to and jurisdiction over the same having been ceded by the commissioners of the land-office, pursuant to the act mentioned in the last section.

[Laws of 1818, p. 312, § 8, and records of the land-office.]

§ 16. The United States have also jurisdiction over a tract of six acres at the mouth of the Oswego river, and on the southerly side of the Oswego fort, in the county of Oswego, bounded as follows, viz.: "Beginning at a stake and stones marked L. H. standing south, thirty five degrees west, eighty-two links, from the southwest angle of the fort; thence south seventy-five degrees east, nine chains and twenty links, to a stake and stones marked L. H. thence south, fifteen degrees west, seven chains thirty-five links, to a stake and stones marked L. H.; thence north seventy-five degrees west, seven chains and sixty-five links, to a stake and stones marked L. H. standing on the bank of the lake; thence northerly along said bank, to a point where the north line of the lot intersects said bank; thence south-easterly along said line about forty-eight links, to the place of beginning;" the title to and jurisdiction over the same having been ceded by the commissioners of the land-office, for the erection of a light-house, pursuant to the act entitled "An act to cede the jurisdiction of certain land near the mouth of the Oswego river to the United States," passed March 27, 1821.

At the
mouth of
Oswego
river.

[77]

[Laws of 1821, p. 154, and records of land-office.]

§ 17. The United States have also jurisdiction over a tract of three acres and one hundred and fifteen rods, situated at the mouth of the Genesee river, on the west side thereof, being part of village lot number twenty-eight, in the village of Charlotte, in the former town of Gates, and county of Monroe, bounded as follows: "Beginning at the easterly side of Main street, at a stake and stones one chain southerly from the northeasterly corner of said lot number twenty-eight, running thence south sixty-one degrees and forty-five minutes east, two chains and fifty links, to a stake and stones; thence north twenty-eight degrees and fifteen minutes east, one chain, to the northerly line of said lot; thence south sixty-one degrees and forty-five minutes east, eight chains and forty-eight links, to the said river; thence south twenty-six degrees west, along the said river, two chains to a stake and stones; thence north sixty-one degrees and forty-five minutes west, two chains and fifty links, to a stake and stones; thence south two chains, to the southerly line of said lot number twenty-eight; thence north sixty-one degrees and forty-five minutes west, eight chains and sixty-three links, along the said line, to the said Main street; thence north twenty-eight degrees and fifteen minutes east, three chains to the place of beginning, containing three acres

At the
mouth of
Genesee
river.

TITLE 3. and one hundred and fifty rods;" the title to, and the jurisdiction over the said tract, having been ceded, by the commissioners of the land-office, for the erection of a light-house, pursuant to the act entitled "An act to amend an act entitled 'An act to cede the jurisdiction of certain lands at the mouth of Genesee river, to the United States,'" passed February 4th, 1822.

[Laws of 1822, p. 4, and records of land-office.]

In Sodus,
Wayne
county.

§ 18. The United States have also jurisdiction over a tract in the town of Sodus, in the county of Wayne, bounded as follows: "Beginning on the shore of Lake Ontario, on the east bounds of Ontario street, running thence south on the said east bounds of the street, nine chains and sixteen links, to a cedar post at the north end of Captain Wickham's board fence; thence north sixty-three degrees and forty minutes east, four chains and twenty-three links, to a cedar stake near the south point of the bank on the north side of the flat; [78] thence north forty degrees east, three chains and thirty-seven links, to the shore of the lake; thence along the shore north thirty-six degrees and thirty minutes west, three chains and eighty-five links; thence north sixty-six degrees west, three chains and ninety-eight links, to the place of beginning; containing three acres and one-fourth, and thirty perches of land;" such jurisdiction having been ceded for the erection of a light-house, by the act entitled "An act to cede the jurisdiction of certain lands on Lake Ontario, to the United States, for the purpose therein mentioned," passed November 17th, 1824.

[Laws of 1824, p. 331, and deed in treasury department of U. S.]

Extent of
cessions in
five last
sections.

§ 19. The jurisdiction so ceded over the tracts described in the five last sections, does not prevent the execution on said tracts of any process at law under the authority of this state, except against the real or personal property of the United States. The tracts described in the said five sections are also exonerated and discharged from any taxes which may be imposed under the authority of this state, while the said land shall remain the property of the United States, and while the same shall be appropriated to the purposes aforesaid, and not otherwise.

[See notes to five last sections.]

Oldfield
point, Suffolk
county.

§ 20. The United States have also jurisdiction over a tract of land at Oldfield point, on Long Island sound, in the county of Suffolk, bounded as follows: "Commencing at a stake at high water mark, from thence running a course south forty-nine degrees and twenty minutes west, seven hundred and seventy-eight feet, to a cherry tree and fence; thence down along the fence a course north thirty degrees eighteen minutes west, from the cherry tree to high water mark, two hundred and forty-five feet; thence the same course, to low water mark; thence along the sound at low water mark, a northerly and easterly course round the point, to a place opposite to the place of beginning; and thence the first mentioned course, to the stake or place of beginning;" and also over a certain other tract of land at Throg's neck, in the county of Westchester, bounded as follows: "Commencing at high water mark, and running a course north thirty-six degrees thirty minutes east, to a certain painted rock, and from thence the same course to high water mark, being

At Throg's
neck, West-
chester
county.

seven hundred and sixty-six feet; thence southerly and westerly round the point, to a painted rock at low water mark; thence the first mentioned course, to the place of beginning;” such jurisdiction having been ceded by the act entitled “An act to vest in the United States of America the exclusive jurisdiction to part of Throg’s neck, in the county of Westchester, and Oldfield point, in the county of Suffolk, and for other purposes,” passed April 17th, 1823, for the erection of a light-house on said tract.

TITLE 3.

[Laws of 1823, p. 202.]

§ 21. The United States have also jurisdiction over two certain tracts of land lying in the town of New Utrecht, in the county of Kings, within this state, the first of which is bounded as follows: “Beginning at the bay or river on the division line of the hereby described premises, and land now or late belonging to Jane Smith, and running thence along the said division line north fifty-eight degrees east, one chain and fifty links, to a certain stake standing on the bank; thence along the said line north thirty-seven degrees east, sixty-seven chains and eighty links, to certain lands now or late belonging to John S. Denyse; thence along the last mentioned lands south fifty-seven degrees east, three chains and ninety-two links, to certain lands now or late belonging to Isaac Cortelyou; thence along the last mentioned lands, and along certain lands now or late belonging to Jaques Cortelyou, south twenty-eight degrees west, thirty-seven chains forty-two links; thence along the last mentioned lands the five following courses, to wit, south thirty-eight degrees forty minutes west, twenty-three chains, to a certain rock; thence south forty-one degrees west, four chains forty-seven links; thence south twenty-five degrees east, three chains and twenty-five links; thence south sixty-four degrees west, seven chains forty-three links; thence south forty-one degrees west, one chain and thirty links, to the bay or river aforesaid; thence northwesterly along the said bay or river, to the place of beginning; containing sixty acres, one rood and six perches of land;” and the second of which is bounded as follows: “Beginning at the southeasterly point of the land next before described, thence north sixty-two degrees east, one hundred and eighty yards; thence north twenty degrees west, seventy-five yards; thence north forty-two degrees east, three hundred and ten yards; thence south sixty degrees east, two hundred and forty-two yards; thence south twenty-five degrees west, one hundred and sixty yards; thence north sixty degrees west, about one hundred and eighty-five yards, to a point near a pond; thence south thirty-three degrees west, one hundred and ninety-five yards; thence south fifty-three degrees west, two hundred and twenty yards, to the bay or river; thence along the said bay, ninety yards, to the place of beginning; according to a plat and survey thereof, containing sixteen acres and one half acre of land;” such jurisdiction having been ceded by the act entitled “An act to vest in the United States of America the exclusive jurisdiction to certain lands in the town of New Utrecht, in the county of Kings, and for other purposes,” passed November 27th, 1824, for the erection of fortifications on the said tracts. The United States have also jurisdiction over a certain tract

[79]
In New
Utrecht,
Kings
county.

TITLE 3. "beginning at the water's edge at the southeast point of the first parcel of land above described; thence north forty-one degrees east, one chain and thirty links; thence north sixty-four degrees east, seven chains and forty-three links; thence north twenty-five degrees west, three chains and twenty-five links; thence north forty-one degrees east, four chains and forty-seven links; thence north thirty-eight degrees and forty minutes east, nine chains and ten links; thence south sixty degrees east, eleven chains and sixty-nine links; thence south twenty-five degrees west, seven chains and twenty-eight links; thence north sixty degrees west, eight chains and forty-one links; thence south thirty-five degrees west, eight chains and eighty-six links; thence south fifty-three degrees west, ten chains; thence along the water's edge, to the place of beginning; containing seventeen acres, fourteen perches and one hundred and five yards of land;" such jurisdiction having been ceded by the act entitled "An act to amend 'An act to vest in the United States of America the exclusive jurisdiction to certain lands in the town of New-Utrecht, in the county of Kings, and for other purposes,' passed November 27th, 1824," passed April 17th, 1826; for the erection of fortifications on the said tract.

[Laws of 1824, p. 387, and L. 1826, p. 281.]

In Islip,
Suffolk
county.

§ 22. The United States have also jurisdiction over a tract of land and beach, situated in the town of Islip, in the county of Suffolk, being the west end of the east branch of Fire-island inlet, "beginning on the southerly side of the same, at low water mark, on the Atlantic ocean, in a range of branded stakes; thence north thirty-two chains, to low water mark on the Great South bay, including all the land to the west of the said north line to Fire-island inlet aforesaid, at low water mark;" such jurisdiction having been ceded by the act entitled "An act to vest in the United States of America, the exclusive jurisdiction in and over a piece of land in the town of Islip, in the county of Suffolk, and for other purposes," passed April 20, 1825, for the erection of a light-house on said tract.

[Laws of 1825, p. 337.]

In Haver-
straw,
Rockland
county.

§ 23. The United States have also jurisdiction over a tract of land situated in the town of Haverstraw, in the county of Rockland, being the extreme point of land called Stony-Point, on the Hudson river, "beginning at the river at high water mark, on the south side of the point, at a stake, thence across the point, north four degrees west, (passing thirty-five links to the west of the fort) to the river at high water mark; thence along the same at high water mark round the point to the place of beginning;" such jurisdiction having been ceded by the act entitled "An act to vest in the United States of America, the jurisdiction over certain lands on Stony-Point, and for other purposes," passed March 23, 1826, for the erection of a light-house or beacon on said tract.

[Laws of 1826, p. 65.]

Extent of
cession in
four last
sections.

§ 24. The jurisdiction so ceded over the tracts described in the four last sections does not prevent the execution on said tracts of any process, civil or criminal, under the authority of this state, except so far forth as any such process may affect the real or personal property of the United States within the said tracts; and all the

lands and tenements within the limits aforesaid shall be, and continue forever hereafter exempted from all taxes, assessments and other charges under or by virtue of any present or future law of this state.

[See notes to four last sections.]

§ 25. The United States have also jurisdiction over a certain tract of land lying in the town of Cornwall, in the county of Orange, and bounded as follows: "Beginning at the northeasterly corner of the piece of land herein intended to be described, at the mouth of a small creek which enters into the Hudson river near the old stores, and thence up and along the southeasterly side of the said creek to its intersection with the northeasterly side of the road leading from West Point to John Cronkhite's; thence southeasterly along the northeasterly side of the said road to its intersection with the road which leads from West-Point southerly to the widow Kinsley's; thence from said point of intersection due south, to a point seven chains south of the line which divides the Gridley farm from the post of West-Point; thence south eighty-one degrees east, to the Hudson's river, on a line parallel with the said division line; and from thence northwardly along the low water mark of the said river, to the place of beginning, containing two hundred and twenty acres or thereabouts," such jurisdiction having been ceded by the act, entitled "An act to cede to the United States the jurisdiction of this state to certain lands at West-Point, in the county of Orange," passed March 2, 1826. Such jurisdiction does not prevent the execution of any process, civil or criminal, under the authority of this state, except so far as such process may affect the real or personal property of the United States within the said tract.

[Laws of 1826, p. 46.]

§ 26. The United States have also jurisdiction over a certain tract of land situated in the town of Lyme in the county of Jefferson, being the extreme point of land called Tibbets' point, bounded as follows: "Beginning at a stake standing on the extreme point thereof, on the bank of Lake Ontario; thence north seven degrees and thirty minutes east, five chains to a basswood sapling cornered; thence south eighty-two degrees and thirty minutes east, five chains and fifty links to a stake cornered, ten links southwesterly from a maple tree blazed; thence south seven degrees and thirty minutes west, seven chains and fifty links to a stake on the bank of Lake Ontario, nine links southerly from a walnut tree blazed; thence north forty-nine degrees and forty-five minutes west, five chains and ninety-nine links to an angle; thence south seventy degrees and thirty minutes west, ninety-seven links to the place of beginning, containing two acres and ninety-six hundredths of an acre of land;" such jurisdiction having been ceded for the erection of a light-house on said tract, by the act entitled "An act to vest in the United States the title to a lot of land in Jefferson county," passed 25th January, 1827. The jurisdiction so ceded does not prevent the execution on said tract of any process, civil or criminal, under the authority of this state.

[L. 1827, p. 17.]

§ 27. The United States have also jurisdiction over a tract of land containing three acres, situated on the south side of the west end of Plumb-Island, in the county of Suffolk, and bounded as

TITLE 3.

[81]

In Cornwall,
Orange
county,
(West
Point).

In Lyme,
Jefferson
county.

[82]

On Plumb
Island, Suffolk
county.

TITLE 3. follows: "Beginning at low water mark, opposite a rock on the edge of the upland, marked U. S. 1826, and running thence north four degrees east, six chains and three links to a stake on the hill; thence running south seventy-nine degrees west, over a rock at the bottom of the bank marked U. S. to the west point of said island to low water mark; thence south-eastwardly along the shore at low water mark to the place of beginning, opposite to the first mentioned rock, butted and bounded northwardly and eastwardly by lands of Richard Jerome; southwardly and westwardly by the waters of Gardiner's bay and Plumb-Gut;" such jurisdiction having been ceded for the erection of a light-house on said tract, by the act entitled "An act declaring the consent of the legislature of the state of New-York to the purchase by the United States of lands on Plumb-Island, for erecting a light-house thereon," passed 13th April, 1827. The jurisdiction so ceded does not prevent the execution on said tract of any process, civil or criminal, under the authority of this state, so that such process does not affect any property of the United States, real or personal, within the said tract.

[Ib. p. 238.]

At Prince's
bay, Rich-
mond
county

§ 28. The United States have also jurisdiction over a tract containing about eight acres and three quarters of an acre of land, situated at Prince's bay, in the town of Westfield and county of Richmond, and bounded as follows: "Easterly and southerly by the bay at high water mark, as patented to the original proprietors; westerly by Richard Lafourge's land; and northerly by land belonging to the estate of Israel R. Dissosway, deceased; being part of the estate whereof he died seized;" such jurisdiction having been ceded for the erection of a light-house on said tract, by the act entitled "An act to vest in the United States of America the jurisdiction over a certain piece of land at Prince's bay in the county of Richmond," passed April 17, 1827. The jurisdiction so ceded does not prevent the execution on said tract of any process, civil or criminal, under the authority of this state, except so far forth as such process may affect the real or personal property of the United States, within the said tract; and the lands and tenements within said tract are exonerated from all taxes, during the continuance of such jurisdiction, in the United States, which jurisdiction is however to continue in the United States so long only as the said tract shall be used and occupied as a site for a light-house.

[L. 1827, p. 364.]

[183]

On Staten
island.

[By the act of 15th April, 1828, the following cession to the United States was made:]

§ 29. The United States have also jurisdiction over a tract of land not exceeding one acre in extent, on the lands belonging to the state, situated on and near the southeastern point or projection, of Staten island: to be laid out in such a manner as not to interfere with the appropriate uses of the military grounds of Fort Tompkins; upon the condition that the government of the United States shall erect and maintain a light-house on said ground; and on failure to do so, the title to said ground shall revert to the people of this state. The jurisdiction so ceded, does not prevent the execution of any process, civil or criminal, issuing under the authority of this state.

[L. 1828, chap. 211.]

L. 1830, Chap. 332 — An act vesting in the United States of America, jurisdiction over a certain piece of land in the town of Watervliet, in the county of Albany.

At Watervliet, Albany county. SECTION 1. The jurisdiction of the state of New York is hereby ceded to the United States of America, for the purpose of erecting and maintaining thereon arsenals, magazines, dock-yards and other necessary buildings, over all that certain tract, piece or parcel of land, situate, lying and being in the town of Watervliet, in the county of Albany, and bounded as follows, to wit: Beginning at an elm tree standing on the west bank of the Hudson river, in the village of Gibbonsville, thence running, by the magnetic meridian in 1828, north sixty-eight degrees west, eighteen chains and seventeen links, to a stone in the ground, marked U. S. No. 6; thence south twenty-two degrees west, ten chains and seventy-six links, to a stone in the ground, marked U. S. No. 7; thence north sixty-eight degrees west, twelve chains eighty-one links, to a stone in the ground, marked U. S. No. 2, at the south side of a new road called the Shaker road; thence along the said road south seventy-two degrees west, four chains and twenty-nine links, to a stone in the ground, marked U. S. No. 3, also on the south side of said road; thence south twenty-two degrees west, six chains and thirty-four links, to a stone in the ground, marked U. S. No. 4; thence south sixty-eight degrees east, thirty-five chains and eighty links, to the west shore of the Hudson river at low water mark; thence up the said stream, along low water mark, till the place of beginning bears north sixty-eight degrees west; thence from the low water mark north sixty-eight degrees west, to the place of beginning, together with all the land under water lying opposite and easterly of the described premises, which has been heretofore granted by letters patent to James Gibbons, by the people of the state of New York; the evidences of the several purchases of the land which is hereby ceded, being recorded in the office of the clerk of the county of Albany: but always excepting and reserving out of the lands above described, the land occupied by the Erie canal, one rod on each side thereof, and also the public highway.

Extent of cession. § 2. The jurisdiction so ceded to the United States is granted upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States, in and over the tracts of land aforesaid, so far as the civil process, in all cases, and such criminal process as may issue under the authority of the state of New York, against any person or persons charged with crimes committed without the said tract of land, may be executed therein, in the same way and manner as if this jurisdiction had not been ceded. The United States are to retain such jurisdiction so long as said tract of land shall be used for the purposes expressed in the foregoing section, and no longer.

L. 1831, Chap. 289 — An act vesting in the United States of America, jurisdiction over a certain piece of land on Captain's Island, in Westchester county, and Horse Island, in the county of Jefferson.

In Rye, Westchester county. SECTION 1. The jurisdiction of the state of New York is hereby ceded to the United States of America, for the purpose of erecting, maintaining and repairing thereon a light-house and other necessary buildings, over all that certain tract, piece or parcel of land, situate, lying and being in the town of Rye, in the county of Westchester, and on Captain's island, and bounded as follows, to wit: Beginning at a marked rock, near a rock called Lightning rock, and running on the southern and eastern shore north seventy-five degrees thirty minutes east, sixty-three links; thence north forty-one degrees east, three chains forty links; thence north eighty-four degrees forty-five minutes east, one chain eighty-eight links; thence north eighty-nine degrees east, three chains eighty links; thence north twenty-seven degrees forty-five minutes east, three chains fifty-three links; thence north fifty-four degrees west, seventy-one links, to a stone bound by the bank at high water mark; thence west, crossing the

island to the pond where a stone bound is erected, at high water mark thence running by the southeast side of the pond, south forty degrees west, seventy-five links; thence south fifty-two degrees fifteen minutes west, one chain ninety-two links; thence north fifty-two degrees forty-five minutes west, seventy-four links; thence south thirteen degrees thirty minutes west, two chains seventy-eight links; thence south forty-nine degrees west, eighty links, to a pine stump by the side of the pond; thence south nineteen degrees west, one chain nine links, across a point of land to the place of beginning, but not to contain any part of the pond.

Horse Island, Jefferson county. § 2. The consent of this state is hereby given to the purchase by the United States of Horse island, in the town of Hounsfeld, in the county of Jefferson, for the purpose of erecting and maintaining thereon a light-house, and other necessary buildings connected therewith, and for no other purpose.

Proviso. § 3. The jurisdiction so ceded, and the consent so given to the United States, in the first and second sections of this act, is granted and given upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States, in and over the tract of land aforesaid, so far that civil process in all cases, and such criminal process as may issue under the authority of the state of New York, against any person or persons charged with the commission of crime without said tracts, may be executed therein in the same way and manner as if this jurisdiction had not been ceded. The United States are to retain such jurisdiction so long as said tracts of land shall be used for the purposes expressed in the first and second sections of this act, and no longer.

L. 1833, Chap. 96 — An act to vest in the United States of America jurisdiction to land therein described.

On island of North Brothers, Queens county. SECTION 1. The jurisdiction in and over a tract of land of not less than one acre nor more than five acres, of the island called the North Brothers (said tract to be selected from the western extremity of said island), in Long Island sound, in the county of Queens, within this state, be and the same is hereby ceded to the United States of America, for the purpose of erecting a light-house on the same. But the jurisdiction so ceded shall not extend, nor be construed to extend, so as to impede or prevent the execution of any process of law, civil or criminal, under the authority of this state, except so far forth as such process may affect any of the real or personal property of the United States of America, within the said tract of land: and all the lands and tenements within the limits aforesaid shall be, and continue forever hereafter, exonerated and discharged from all taxes, assessments and other charges which may be imposed under the authority of this state.

In Esopus, Ulster county. § 2. The jurisdiction of this state in and over a tract of land covered with water at or near the junction of the Rondout and Hudson rivers, not exceeding two acres, in the town of Esopus, in the county of Ulster, be, and the same is hereby ceded to the United States of America, for the purpose of erecting a light-house or beacon light on the same; but the jurisdiction so ceded shall not extend, nor be construed to extend, so as to impede or prevent the execution of any process of law, civil or criminal, under the authority of this state, except so far forth as such process may affect any of the real or personal property of the United States of America, within the said tract of land: and all the lands and tenements within the limits aforesaid, shall be and continue forever hereafter, exonerated and discharged from all taxes, assessments and other charges which may be imposed under the authority of this state.

In Watervliet, Albany county. § 3. The jurisdiction of the state of New York is hereby ceded to the United States of America, for the purpose of erecting and maintaining thereon arsenals, magazines and other necessary buildings, over all

that certain tract, piece or parcel of land, situate, lying and being in the town of Watervliet, in the county of Albany, and bounded as follows, to wit: Beginning at a stone set in the ground, marked U. S. number 2, standing at the south side of the shaker road, and running thence from the said stone along the said road north seventy-two degrees east, sixteen chains and twenty-four links, to a stone in the ground, marked U. S. No. 6; thence south twenty-two degrees west, ten chains seventy-six links, to a stone in the ground, marked U. S. No. 7; thence north sixty-eight degrees west, twelve chains eighty-one links, to the place of beginning, containing six acres and eighty-nine hundredths of an acre. Also over all that other certain tract, piece or parcel of land situate, lying in and being in the town of Watervliet, in the county of Albany, aforesaid, bounded as follows, to wit: Beginning at a stone set in the ground, marked U. S. No. 4, and running thence north twenty-two degrees east, six chains and thirty-four links, to a stone in the ground, marked U. S. No. 3, standing at the south side of the Shaker road; thence south seventy-two degrees west, sixteen chains and twenty-four links, to a stake, (a stone in the ground marked U. S. No. 8.) on the north side of the old Schenectady road; thence along the said road southeasterly twenty-two chains and fifty-nine links, to the westerly corner of the burial ground; then along the outside thereof north fifty-seven degrees forty-five minutes east, three chains and twenty-nine links, to the most northerly corner of the said burial ground; thence south thirty-two degrees fifteen minutes east, three chains twenty-nine links, to the most easterly corner of the said burying ground; thence south sixty-nine degrees east, one chain forty-four links, to a stake, (a stone in the ground marked U. S. No. 9;) thence south seventy-nine degrees fifteen minutes east, twelve chains eighty links, to a stone in the ground marked U. S. No. 10, on the west side of the Erie canal; thence along the canal north ten degrees east, nine chains and ninety-three links, to the south line of the land belonging to the people of the United States, (designated by a stone in the ground, marked U. S. No. 11;) thence along the said line north sixty-eight degrees west, twenty-four chains fifty links, to the place of beginning, containing thirty-eight acres and one tenth of an acre: but always excepting and reserving out of the lands above described one rod in width along the west side of the Erie canal.

Proviso. § 4. The jurisdiction so ceded to the United States over the said tracts of land mentioned in the last preceding section, is granted upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said tracts of land, so far as that civil process in all cases, and such criminal process as may issue under the authority of the state of New York, against any person or persons charged with crimes committed within or without the said tracts of land, may be executed therein in the same way and manner as if this jurisdiction had not been ceded, and is to take effect when the purchase by them of the said tracts of land is completed, and the evidences thereof recorded in the office of the clerk of the county of Albany, and they are to retain such jurisdiction so long as the said tracts of land shall be used for the purposes expressed in the foregoing section and no longer.

When to vest. § 5. The jurisdiction hereby first ceded shall not vest until the United States shall have acquired the title to the land mentioned in the preceding section, either by purchase or in the manner hereinafter prescribed.

Ib. § 6. If the United States cannot acquire the title to the said premises first above described by purchase, the same may be taken, and the damages may be ascertained and paid in the manner prescribed in the fourth article of the second title of chapter nine of the third part of the Revised Statutes, and the same proceedings shall be had in all respects as prescribed in the said article.

L. 1833, Chap. 181—An act to vest in the United States of America, jurisdiction over two certain tracts of land in the county of Kings.

In Brooklyn. SECTION 1. The jurisdiction of the state of New York is hereby ceded to the United States of America, for the purpose of erecting and main-

taining a navy hospital and other necessary edifices and buildings, over all those certain tracts, pieces or parcels of land, situate, lying and being in the county of Kings, and state of New York, bounded and contained as follows, to wit: All that certain tract, piece or parcel of upland, salt meadow and marsh, bounded as follows: beginning at the corner of the Wallabout bridge road, and the road leading to Williamsburgh, and running from thence westerly along the bridge road and land of John Ryerson, to a corner; thence westerly along the land of John Ryerson, to a corner; thence westerly along the same and a small creek in the meadow, to the Wallabout bay; thence northerly by the said Wallabout bay, to the Wallabout creek; thence easterly by the creek aforesaid to the south corner of the dock; thence westerly by land of Ida Schenck and the dock, including the road sixty feet, (the road to be for the use of the parties interested in the dock and landing;) thence one hundred and forty feet to the road leading from Williamsburgh to a corner eighty-eight feet from the creek; thence along said road southerly to the place of beginning, excepting and reserving to Francis Skillman, his heirs and assigns, one undivided half of the dock, and a privilege of a landing at the dock for the owner or occupant of the farm adjoining the herein described premises, lately sold to Charles Bostwick, esquire: Also, all that certain piece of land and meadow on the easterly side of the road to Williamsburgh, beginning against the road at the bridge, and running from thence easterly and southerly by the Wallabout creek, to a stake at the said creek; thence westerly to a notched post against the road; thence northerly along the road to the place of beginning, altogether in upland, salt meadow and marsh, about thirty-three acres, according to a survey and map of the said lands, made by Jeremiah Lott, in the month of April, one thousand eight hundred and twenty-four. The tracts of land, the jurisdiction whereof is hereby ceded, being the same which were, by an indenture bearing date the first day of July, in the year of our Lord one thousand eight hundred and twenty-four, conveyed by Sarah Schenck, widow of Martin Schenck, Jane Schenck, widow of Jeromus Schenck, Jacob Harris and Ida his wife, and Isaac Harris and Mary Ann his wife, all of the county of Kings, and state of New York, to the secretary of the navy, the secretary of the treasury, and the secretary of war, for the time being, commissioners of navy hospitals, and to their successors and assigns forever.

Proviso. § 2. The jurisdiction so ceded to the United States of America shall not extend, or be construed to extend, so as to impede or prevent the execution of any process of law, civil or criminal, under the authority of this state, except so far forth as such process may affect any of the real or personal property of the United States of America within the said tracts of land; and all the lands and tenements conveyed by the said indenture, as aforesaid, shall be and continue forever hereafter exonerated and discharged from all taxes, assessments and other charges which may be imposed under the authority of this state.

Ib. § 3. The jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue so long as the premises herein above specified shall remain in the occupancy of the United States of America, or of their officers, agents or servants, and no longer.

L. 1836, Chap. 19—An act authorizing the sale to the United States of certain lands on Staten Island.

On Staten Island. SECTION 1. The commissioners of the land-office are hereby authorized to sell to the United States of America upon such terms as they may think proper, so much of the land upon Staten island belonging to the state of New York, heretofore used for military purposes, as may be required by the government of the United States to construct and maintain proper defences for the protection of the harbor of New York.

Jurisdiction. § 2. The jurisdiction over such land as may be sold by virtue of the first section of this act, from and after such sale, shall be ceded to the

United States of America, for the purposes for which such land shall have been sold. But such jurisdiction shall not be construed so as to prevent or impede the execution of any process, civil or criminal, under the authority of this state, except so far as such process may affect the real or personal property of the United States within the said tract of land.

L. 1839, Chap. 29 — An act to vest in the United States of America, jurisdiction to land therein described.

At Esopus meadows. SECTION 1. The jurisdiction in and over a tract of land situate in the town of Esopus, in the county of Ulster, at a place called the Esopus meadows or flats, in the Hudson river, and covered with the waters, and which is bounded and described as follows, viz.: Beginning at a point on the west side of the channel of the Hudson river, on the edge of the said channel, in eighteen inches water at low water, from whence a course south two degrees east, will strike the northwest corner of Governor Lewis's dock, and a course north two degrees east, will strike the window in the store on Thompson's dock, and a course south forty-three degrees east will strike the northeast corner of Emmet's house, and a course north sixty-five degrees west will strike a small house on the west side of the river, occupied by Henry Terpenning; and a course south twenty-seven degrees west, will strike the store on Degraff's dock; thence from said point down the river five chains; thence towards the west bank of the river at right angles to the first course five chains; thence with a course parallel to the first course five chains, and thence with a course parallel to the second course five chains, to the place of beginning, be and the same is hereby ceded to the United States of America. for the purpose of erecting a light house or beacon light on the same.

Proviso. § 2. The jurisdiction ceded in the first section of this act shall not extend, nor be construed to extend so as to impede or prevent the execution of any process of law, civil or criminal, under the authority of this state, except so far forth as such process may affect any of the real or personal property of the United States of America within the said tract of land; and all the lands and tenements within the limits aforesaid shall be, and continue forever hereafter, exonerated and discharged from all taxes, assessments and other charges which may be imposed under the authority of this state; and nothing in this act contained shall be construed to impair the rights of any individual claiming title to the lands over which jurisdiction is hereby ceded.

L. 1839, Chap. 232 — An act to cede the jurisdiction of certain land near the mouth of Oswego river, to the United States.

In Oswego. SECTION 1. The commissioners of the land-office are hereby authorized to convey to the United States of America, the title of this state to all that parcel of land lying near the mouth of the Oswego river in Oswego county, known as the old fort, military and parade ground, containing fifty-four acres, be the same more or less, or so much thereof as may be required by the United States for the purpose of re-establishing the military post, of rebuilding the fort, redoubts and barracks, and of improving the parade ground.

Proviso. § 2. The jurisdiction over such land as may be conveyed by virtue of the first section of this act, from and after such conveyance, shall be ceded to the United States of America, for the purposes for which such land shall have been conveyed; such jurisdiction shall not be construed so as to prevent or impede the execution of any process, civil or criminal, under the authority of this state, except so far as such process may affect the real or personal property of the United States within the said parcel of land.

Ib. § 3. The property so ceded shall be exonerated and discharged from any taxes which may be imposed under the authority of this state, while the said

land shall remain the property of the United States, and while the same shall be appropriated to the purposes intended by this act and not otherwise.

Ib. § 4. Whenever the United States shall cease to occupy the aforesaid mentioned land for the purposes mentioned in the first section of this act, then said land shall revert to the people of this state.

L. 1840, Chap. 155 — An act to cede the title and jurisdiction over certain lands to the United States.

At Black Rock and Fort Niagara. SECTION 1. The commissioners of the land-office are hereby authorized to cede and convey to the United States of America the title of this state to the lands belonging to this state situate in the south village of Black Rock, between Lake street or Broadway and the easterly line of the Buffalo and Black Rock railroad, in said south village of Black Rock, or so much thereof as may be required by the United States of America, and necessary for the purpose of erecting and establishing a fort, battery, barracks, parade ground or military post; and also to the lands covered by Fort Niagara, and such others adjacent thereto as shall be necessary for the accommodation of that post.

Proviso. § 2. The jurisdiction over such lands as shall be conveyed by virtue of the first section of this act, and such other lands adjacent as shall be purchased by the United States for the purpose mentioned in said first section; and over such lands as shall be purchased by the United States, and as are necessary as a site for a fort near the outlet of Lake Champlain, from and after the conveyance of such lands, and upon the execution thereof, shall be ceded to, and vest in the United States of America. But such jurisdiction shall not impede the execution of any process, civil or criminal, issued under the authority of this state, except so far as such process may affect the real or personal property of the United States within the ceded territory.

Ib. § 3. The property over which jurisdiction is granted, by the second section of this act, shall be exonerated and discharged from all taxes and assessments which may be levied or imposed under the authority of this state, while the said lands shall remain the property of the United States, and shall be used for the purpose intended by this act, and not otherwise.

Ib. § 4. Whenever the United States shall cease to occupy the said land, or any part thereof, for the purpose mentioned in the first section of this act, then said lands shall revert to the people of this state.

L. 1842, Chap. 57 — An act to amend "An act to cede the title and jurisdiction over certain lands to the United States," passed April 21, 1840.

At Black Rock. SECTION 1. The commissioners of the land office are hereby authorized to cede to the United States of America the title of this state to the point of land belonging to this state, situate in the south village of Black Rock, lying north of block one hundred and thirty-three, (133) and between the Erie canal and Black Rock harbor, provided the same may be required by the United States for military purposes; reserving a free and uninterrupted use and control in the canal commissioners of all that may be necessary for canal and harbor purposes.

Proviso. § 2. The jurisdiction over such lands as may be conveyed by virtue of the first section of this act, and such other lands as shall be purchased by the United States for the purpose of erecting a fort, battery or other military works thereon, adjacent to, or in the vicinity of the lands owned by the United States, and occupied by the light house in the city of Buffalo, shall be ceded to and vested in the United States; subject to such conditions and restrictions as are imposed by the act hereby amended.

L. 1842, Chap. 316—An act to give the consent of the legislature of this state to the taking of certain lands by the United States for the purpose of military defence.

In Black Rock. SECTION 1. The consent of the legislature of this state is hereby given to the United States taking for the site of barracks and defensive works, at or near Buffalo, so much of blocks numbers 167, 168 and 186 in the south village of Black Rock as shall be deemed necessary for the purpose, upon just and full compensation being provided for the owners thereof in the manner prescribed in the fourth article and second title of the ninth chapter and third part of the Revised Statutes; but the consent so given shall not impede the execution of any process, civil or criminal issued under the authority of this state, except so far as such process may affect the real or personal property of the United States within the said territory.

L. 1844, Chap. 21—An act to cede the title and jurisdiction over certain lands in the south village of Black Rock, to the United States.

In Black Rock. SECTION 1. The commissioners of the land office are hereby authorized to cede and convey to the United States of America the title of this state to certain lands belonging to this state, in the south village of Black Rock, in the county of Erie, which are bounded and described as follows: Beginning at the northeast corner of Connecticut street and the Buffalo and Black Rock railroad, thence first in a northwesterly and next in a northerly direction along the easterly side of said railroad, to a short street leading from said railroad to Massachusetts street; thence along the south side of said short street to Broadway; thence along the west side of Broadway to Fifth street; thence along the southwest side of Fifth street to Rhode Island street; thence along the southeast side of Rhode Island street to Broadway; thence along the west side of Broadway to Fourth street; thence along the southwest side of Fourth street to Connecticut street; thence along the northwest side of Connecticut street to the place of beginning: or so much thereof as may be required by the United States of America, and necessary for the purpose of erecting and establishing a fort, battery, barracks, parade ground or military post; provided always that this state shall have the right to quarry, carry off, and use, for public purposes the stone on the southwest side of the reserve, called the "Military square," and of the reserve immediately north thereof, until the bank shall have been penetrated by such quarrying to within fifty feet of the southwest side of Fourth street; the United States of America being allowed to quarry, carry off and use so much stone in said quarry as may be deemed necessary for the construction of the contemplated defences, together with all the buildings and other erections that may be connected therewith.

Manner of acquiring title. § 2. The jurisdiction over such land, the title of which shall be acquired by the United States pursuant to the first section of this act, or has been acquired under any law authorizing proceedings in the nature of a writ *ad quod damnum*, or by purchase from individuals of lands lying in the city of Buffalo and in the village of Black Rock, and over all those streets, lanes and alleys, lying between blocks number one hundred eighty-six, one hundred sixty-seven and one hundred sixty-eight, in said village, and between one and all of said blocks and the premises described in the first section of this act, which are or may hereafter be closed, or discontinued by law, for the purpose of establishing a fort, battery, barracks, parade-ground or military post, at or near Buffalo, shall be ceded to and vest in the United States of America. But such jurisdiction shall not impede the execution of any civil or criminal process issued under the authority of this state, except so far as such process may affect the real or personal property of the United States within the ceded territory.

Proviso § 3. The property, over which jurisdiction is granted by the first section of this act, shall be exonerated and discharged from all taxes and assessment which may be levied or imposed under the authority of this state, while the said

land shall remain the property of the United States, and shall be used for the purpose intended by this act, and not otherwise.

Ib. § 4. Whenever the United States shall cease to occupy the said land or any part thereof, for the purpose mentioned in the first section of this act, then said lands shall revert to the people of this state.

L. 1846, Chap. 25 — An act granting the consent of the state of New York to the purchase by the United States, of certain lands for defensive works, and ceding jurisdiction over the same.

In Buffalo, near the mouth of the Genesee river, at Sackett's Harbor, and in the St. Lawrence-
SECTION 1. The consent of the state of New York is hereby given to the purchase by the United States, of such lots of ground and tracts of land in or near the city of Buffalo, at or near the mouth of Genesee river, and at or near Sacketts Harbor, and also to the purchase of such island or islands in the River St. Lawrence, between St. Regis and the Thousand islands, as the authorities or government of the United States may select for the site of fortification or defensive works at the points above designated, and the United States may have, hold, use, occupy and own said lots of land, and such island or islands, and exercise jurisdiction and control over the same subject to the restrictions hereinafter mentioned.

Purpose of cession. § 2. The jurisdiction of the state of New York in and over the said lands and island or islands mentioned in the last section, shall be, and the same is hereby ceded to the United States, for the purpose of erecting fortifications or defensive works thereon.

Proviso. § 3. The said consent is given, and the said jurisdiction ceded, upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States, in and over the said tracts of land, and island or islands, so far, as that all civil process in all cases, and such criminal process as may issue under the laws or authority of the state of New York, against any person or persons charged with crimes committed without said tracts of land, and island or islands, may be executed therein in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Ib. § 4. The jurisdiction hereby ceded shall not vest in respect to any or either of such lots of land or islands, until the United States shall have acquired the title to the same, either by purchase or in the manner hereinafter prescribed.

Manner of acquiring title. § 5. If the United States cannot acquire the title to the said tracts of land and islands, or either of them by purchase, the same may be taken, and the damages may be ascertained and paid in the manner prescribed in the fourth article of the second title of chapter nine of the third part of the Revised Statutes, and the same proceedings shall be had in all respects as are prescribed in the said article.

Ib. § 6. The said tracts of land, and island or islands, when acquired by the United States by purchase or by proceedings under the last section, shall be and continue forever thereafter exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state, but the jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue in respect to said tracts of land or island or islands respectively, so long as the same shall remain the property of the United States, and no longer.

L. 1847, Chap. 153 — An act vesting in the United States of America, jurisdiction over a certain piece of land in the village Sacketts Harbor in the county of Jefferson, and over certain islands in the river St. Lawrence.

In Sackett's Harbor. SECTION 1. The jurisdiction of the state of New York is hereby ceded to the United States of America, for the purpose of erecting and

maintaining thereon fortifications, defensive works or buildings for officers' quarters and other necessary government purposes, over all that certain tract, piece or parcel of land situate lying and being in the village of Sacketts Harbor in the county of Jefferson, and bounded as follows, to wit: southwesterly by the main street in said village, southeasterly by lands now or late of Edmund Luff and John Warden, heretofore conveyed to them by Augustus Sackett, and on the other sides by the waters of said harbor and of Black River bay, and commonly called Navy point, and the military establishment usually called Fort Tompkins, and being the same premises heretofore conveyed to the United States of America by the executors of the late Henry Eckford, containing about three acres of land more or less.

Islands in the River St. Lawrence. § 2. The consent of the state of New York is hereby given to the purchase by the United States of America of such island or islands, or part or parts thereof in the River St. Lawrence as the authorities or government of the United States may select for the site or sites of beacon lights and other necessary government purposes; and they may have, hold, use, occupy and own said island or islands or parts thereof, and exercise jurisdiction and control over the same, subject to the restrictions hereinafter mentioned.

Purposes. § 3. The jurisdiction of the state of New York in and over the said lands and island or islands or parts thereof mentioned in this act shall be for the purposes herein mentioned.

Condition. § 4. The said jurisdiction is ceded and the said consent is given, upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said tract of land and island or islands so far as that all civil process in all cases, and such criminal process as may issue under the laws and authority of the state of New York against any person or persons charged with crimes committed without said tract of land and island or islands, may be executed therein in the same manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Saving Clause. § 5. The jurisdiction hereby ceded shall not vest in respect to any or either of said islands until the United States shall have acquired the title to the same either by purchase or in the manner hereinafter prescribed.

Title, how to be acquired in certain cases. § 6. If the United States cannot acquire the title to the said island or islands or parts thereof by purchase, the same may be taken and the damages may be ascertained and paid in the manner prescribed in the fourth article of the second title of chapter nine of the third part of the Revised Statutes, and the same proceedings shall be had in all respects as are prescribed in the said article.

Lands exonerated from taxes and assessments. § 7. The said tract of land and the said island or islands or parts thereof when acquired by the United States by purchase or by proceedings under the last section, shall be and continue forever thereafter exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded, and the exemption from taxation hereby granted shall continue in respect to the said tract of land, island or islands or parts thereof respectively so long as the same shall remain the property of the United States, and no longer.

L. 1847, Chap. 196—An act granting the consent of the state of New York, to the purchase, by the United States, of certain lands, for the purpose of the erection of a light house, and ceding jurisdiction over the same.

North Dumplin island. SECTION 1. The consent of the state of New York is hereby given to the purchase, by the United States, of a small island in Long island sound, called the North Dumplin, or Hammock, containing about one acre on which to

erect a light-house; and the said United States may have, hold, use occupy and own the said island or hammock, and exercise jurisdiction and control over the same, subject to the restrictions hereinafter mentioned.

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Purpose of the cession. § 2. The jurisdiction of the state of New York, in and over the said island or hammock mentioned in the last section, shall be, and the same is hereby ceded to the United States, for the purpose of erecting a light house thereon; and the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said island or hammock.

Proviso. § 3. The said consent is given, and the said jurisdiction ceded, upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States, in and over the said island or hammock, so far as that all civil process in all cases, and such criminal process as may issue under the laws or authority of the state of New York, against any person or persons charged with crimes committed without said tract of land, island or hammock, may be executed therein in the same way and manner as if such consent had not been given, or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Ib. § 4. The jurisdiction hereby ceded shall not vest in respect to the said island or hammock, until the United States shall have acquired the title to the same, either by purchase, or in the manner hereinafter prescribed.

Ib. § 5. If the United States cannot acquire the title to the land, island or hammock by purchase, the same may be taken, and the damages may be ascertained and paid in the manner prescribed in the fourth article of the second title of chapter nine of the third part of the Revised Statutes, and the same proceedings shall be had in all respects as are prescribed in said article.

Ib. § 6. So long as the said island or hammock shall remain the property of the United States, when acquired by purchase, or by proceedings under the last section, the same shall be, and continue thereafter, exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state, and no longer.

Saving clause. § 7. No moneys which may be necessary to pay any damages assessed, or any costs and expenses incurred, under the provisions of this act, shall be paid out of the treasury of this state.

L. 1849, Chap. 288.—An act giving assent to the erection by the United States of a marine hospital at the old fort, military, or parade ground at Oswego.

Marine hospital. SECTION 1. None of the provisions of the "Act to cede the jurisdiction of certain land near the mouth of the Oswego river to the United States," passed March 27, 1821, or of the "Act to cede the jurisdiction of certain land near the mouth of the Oswego river to the United States," passed April 25, 1839, shall be construed to prevent the erection by the United States of a marine hospital on any part of the said land.

Location. § 2. Consent is given to the location or setting apart of any part of the said and, for the uses of a marine hospital.

L. 1849, Chap. 390—An act to cede to the United States sufficient land in the Hudson river near Tarrytown Point, on which to erect a beacon light.

At Tarrytown Point. SECTION 1. The United States are hereby authorized to erect or cause to be erected, in the Hudson river, at a point in the vicinity of Tarrytown Point, at such distance from the shore that the water at the time of ordinary low water mark, shall not exceed two feet in depth, a beacon light for the purpose of securing the safety of vessels navigating the said river.

Site, how to be selected and when. § 2. The commissioners of the land office shall select the site to be used for this purpose, and when a description of the site so selected and approved of by said commissioners, shall have been filed in the office of the secretary of state, then the title to such land shall be vested in the United States, and so continue so long as the same shall be used for the purposes mentioned in the first section of this act.

Cession of jurisdiction. § 3. The state of New York do hereby cede to the United States jurisdiction over the land which shall become vested in the United States by virtue of the provisions of this act, but this cession of jurisdiction shall not impede or prevent the execution on said land of any process, civil or criminal, under the authority of this state.

L. 1850, Chap. 222 — An act to cede jurisdiction to the United States over certain lands in the city of Buffalo and the town of Black Rock in the county of Erie, for the purpose of a canal or channel and the construction of piers, a light house and sea wall.

Land in Big Buffalo creek. SECTION 1. The jurisdiction of the state of New York is hereby ceded to the United States over all that certain piece or parcel of land bounded as follows: Beginning at a point in the southerly margin of the Big Buffalo creek, at the southeast corner of lot number fifty in the city of Buffalo, thence south forty-five degrees and thirty minutes west, one thousand feet to Lake Erie; thence at right angles northerly and along the shore of Lake Erie, two hundred feet; thence northerly on a line two hundred feet from and parallel to the first mentioned line, one thousand feet to the southerly margin of the Big Buffalo creek; and thence southerly at right angles and along the margin of said creek, two hundred feet to the place of beginning; together with such other lands adjoining thereto, and in connection therewith and the waters of Lake Erie as shall be necessary for the purpose of excavating and maintaining a canal or channel to be used as a public highway, and connecting Lake Erie with said creek, and for the purpose of erecting and maintaining the necessary piers to protect the said canal or channel and a light-house at or near the mouth thereof.

Parts of Buffalo and Black Rock. § 2. The jurisdiction of the state of New York is hereby ceded to the United States over so much land in the city of Buffalo and the town of Black Rock in the county of Erie, as shall be necessary for the erection and maintaining of a sea wall connecting with the pier on the south side of the Big Buffalo creek, now belonging to the United States, and extending southerly therefrom along the shore of Lake Erie to the northerly side of the canal or channel mentioned in the first section of this act, and from the southerly side of said channel to Four Mile point.

Proviso. § 3. The jurisdiction hereby ceded shall not vest until the United States shall have acquired, for the purposes in this act mentioned, the title to the lands mentioned in the preceding sections of this act, by grant or deed from the owners thereof, and the evidences thereof shall have been recorded in the office of the clerk of Erie county, and the United States are to retain such jurisdiction so long as such lands shall be used for the purposes in this act mentioned, and no longer; and such jurisdiction is granted upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said lands, so far as that civil process in all cases not affecting the real or personal property of the United States, and such criminal or other process as shall issue under the authority of the state of New York against any person or persons charged with crimes or misdemeanors committed within or without the limits of the said lands may be executed therein, in the same way and manner as if no jurisdiction had been hereby ceded; and all the lands and tenements which may be granted as aforesaid to the United States, shall be and continue, so long as the same shall be used for the purposes in this act mentioned,

exonerated and discharged from all taxes, assessments and other charges which may be imposed under the authority of the state of New York.

Proviso. § 4. Nothing in this act contained shall deprive the owners of the lands which may be granted to the United States for the purposes in this act mentioned, or any of them, of the right to excavate the canal or channel mentioned in the first section of this act, nor shall this act be so construed as to prevent the common council of the city of Buffalo from causing the said canal or channel to be excavated under or pursuant to any authority of the state of New York heretofore granted, or which may be hereafter granted: provided, however, that such excavation by the said common council, or by said owners, shall not after the same shall be made in any way affect the jurisdiction of the United States hereby ceded.

L. 1852, Chap. 32 — An act vesting in the United States of America, jurisdiction over a certain tract of land on Gardiner's island in the county of Suffolk.

Jurisdiction over part of Gardiner's Island ceded to United States. SECTION 1. The jurisdiction of the state of New York is hereby ceded to the United States of America, for the purpose of erecting and maintaining thereon a light-house and other necessary buildings, over all that certain tract or parcel of land being part of Gardiner's island, in the town of East Hampton, in the county of Suffolk, and particularly described as follows, to wit: All that part of the north point of Gardiner's island aforesaid, lying northwest of a line described, and running as follows, to wit: Starting from a stake on a sand ridge, and running thence north fifty-six degrees east, and south fifty-six degrees west, to the waters on each side of the said point or beach respectively, and bounded northerly, easterly and westerly by the waters of Gardiner's bay, and southeasterly by the beach at the aforesaid line, containing about fourteen acres, more or less.

Concurrent jurisdiction retained by the state in certain cases. § 2. The jurisdiction so ceded to the United States is granted upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the tract of land aforesaid, so far as that civil process in all cases, and such criminal process as may issue under the authority of the state of New York, against any person or persons charged with crimes committed without the said tract of land, may be executed therein, in the same way or manner as if this jurisdiction had not been ceded; the United States are to retain such jurisdiction as long as the said tract of land shall be used for the purposes expressed in the first section, and no longer.

L. 1853, Chap. 355 — An act to vest in the United States of America jurisdiction over certain lands in the city of Brooklyn, and adjacent thereto.

Lands in Brooklyn ceded to the United States. SECTION 1. The jurisdiction of this state over all the lands in and adjacent to the city of Brooklyn, belonging to the United States, and used and occupied as a navy yard and naval hospital, and which has not heretofore been ceded to the United States, is hereby ceded to the United States for the uses and purposes of a navy yard and naval hospital, on the condition contained in this act, and according to the plan furnished by the navy department, and bounded as follows:

Boundaries; proviso. Commencing at the stone monument, No. 1, at the corner of Flushing avenue and the Williamsburgh road; thence S. 82° 25' W. 599 $\frac{3}{4}$ feet to stone monument No. 2; thence N. 82° 30' W., along Flushing avenue 4,152 feet 6 $\frac{1}{2}$ inches to stone monument No. 3; thence N. 7° 16' E., along Navy street 903 feet to the point J; thence N. 25° 39' W. 479 $\frac{4}{7}$ feet to point K; thence N. 40° 47' E. 1,357 $\frac{1}{7}$ feet to the point L, thence northeastwardly until it intersects the contin-

uation of the Williamsburgh line at the point M, at a distance of 130 feet from the block; thence eastwardly by and with the said continuation of the Williamsburgh line to the centre of the channel at the point N; thence along the centre of the channel to the point O, at the intersection of the line A B, continued; thence south $57^{\circ} 30'$ E. to the point A, equidistant between two piles, driven at low water mark; thence S. $57^{\circ} 30'$ E. $991\frac{3}{4}$ feet to the point B; thence S. 42° E. 1,025 feet to the point C; thence S. $35^{\circ} 30'$ E. 200 feet to the point D; thence S. 29° E. $271\frac{1}{2}$ feet to the point E; thence S. 4° E. $189\frac{1}{2}$ feet to the point F; thence S. $34^{\circ} 30'$ W. 93 feet to the point G, in the centre of the Wallabout creek; thence along the centre of said creek to the point H; thence S. 68° W. 244 feet to the point I; thence S. $0^{\circ} 55'$ E. $219\frac{1}{2}$ feet to the commencement, at the monument No. 1; provided, nevertheless, that the city of Brooklyn shall not be deprived of any vested rights in and over Vanderbilt and Clinton avenues, as now laid out and graded, or the rights of sewerage which the said city may now possess over the property lying between the naval hospital grounds and the easterly boundary of the present navy yard

Conditions. § 2. Such jurisdiction is ceded as aforesaid, on the condition that the United States shall pay, or cause to be paid, to the city of Brooklyn the sum of eleven thousand three hundred and eighty-three dollars and seventy-three cents, with interest from the first day of February, 1852, until paid, being the balance of an assessment now due on a part of said lands for grading and paving Flushing avenue.

Lands north of Flushing avenue and between Clinton and Vanderbilt avenues to be ceded. § 3. The United States may cede and convey unto the city of Brooklyn, in fee simple, the land north of Flushing avenue and between Clinton and Vanderbilt avenues, extending northerly to Wallabout bay, if congress should so direct.

United States to retain jurisdiction as long as premises are used for the purposes for which jurisdiction is ceded. § 4. The United States may retain such use and jurisdiction as long as the premises described shall be used for the purposes for which jurisdiction is ceded, and no longer. And the free, common and unrestricted use and navigation of the waters and channels of the Wallabout bay, from the westerly line of Vanderbilt avenue in front thereof, and extending therefrom easterly and northerly to the East river, is hereby reserved to the people of this state; and the United States shall not in any way or manner injure, affect or obstruct the free and entire use and navigation of the said channel, or the landing places or wharves at the foot of, or where Clinton and Vanderbilt avenues, or either of them, reach or may extend to the said channel. Nor shall the jurisdiction so ceded to the United States impede or prevent the service or execution of any legal process, civil or criminal, under the authority of this state.

Saving clause. § 5. Nothing in this act contained shall be construed so as to allow the common council of the city of Brooklyn, hereafter, to tax or assess any of the lands of the United States for any purpose whatsoever.

L. 1853, Chap. 480—An act ceding jurisdiction to the United States over lands to be occupied as sites of light houses and keepers' dwellings within this state.

Jurisdiction ceded to U. S. over certain lands. SECTION 1. Jurisdiction is hereby ceded to the United States, over so much land as may be necessary for the construction and maintenance of light houses and keepers' dwellings within this state, not to exceed ten acres of land for each, the same to be selected by an authorized officer of the United States, approved by the governor; and the boundaries of the land selected, with such approval indorsed thereon, and a map thereof, filed in the office of the secretary of state, and by him recorded: provided, always, and the assent aforesaid is granted upon this express condition—that this state shall retain a concurrent jurisdiction with the United States, in and over the several tracts aforesaid, so far that all civil, and such criminal processes as may issue under

authority of this state, against any person or persons charged with crimes committed within the bounds of this state, may be executed therein, in the same manner, as though this assent had not been granted.

Lands to be ceded and for what purpose. § 2. That the foregoing shall be applicable only to such lands as shall be selected and approved as aforesaid, and a survey thereof filed and recorded as above provided, for the construction of the following light houses, to wit:

For a beacon or range light on Staten island, in the rear of the Elm Tree beacon, to serve as a range for the Swash channel.

For a light house on Point au Roche, on the west side of Lake Champlain.

For three beacons in North river—one at the south point of the island east of Barren island; one at the north point of the island opposite and east of Coeymans' bar; and one on the point of the island at the mouth of Schodack channel, and opposite Mall rocks.

For a beacon to be placed on the extreme eastern point of the north fork of Long island.

For a light house on or near Carlton head, in the St. Lawrence river.

Condition. § 3. The jurisdiction hereby ceded shall not vest in respect to either of the said sites, until the United States shall have acquired the title to said sites, either by purchase or in the manner hereinafter prescribed. [*Added by L. 1855, ch. 201.*]

Ib. § 4. If the United States cannot acquire the title to said sites aforesaid, or any of them, or either, or any part of either of them, by purchase, the same, or such part as cannot be so acquired by purchase, may be taken and the damages may be ascertained and paid in the manner prescribed in the fourth article of the second title of chapter nine of the third part of the Revised Statutes, and the same proceeding shall be had in all respects as are prescribed in said article. [*Added by L. 1855, ch. 201.*]

L. 1854, Chap. 1—An act granting the consent of the state of New York to the purchase, by the United States, of certain lands for the purpose of the erection of a custom-house, warehouse and court rooms, and ceding jurisdiction over the same.

One acre in Buffalo may be sold to the United States. SECTION 1. The consent of the state of New York is hereby given to the purchase by the United States of America, of any one or more pieces of land situated in the city of Buffalo, not exceeding in the whole one acre in quantity, on which to erect a custom house, warehouse, court rooms, post office, or for either or any of said purposes, and for steamboat inspectors. And the said United States may have, hold, use, occupy and own the said land or lands when purchased, and exercise jurisdiction and control over the same and every part thereof, subject to the restrictions hereinafter mentioned. [*Thus amended by L. 1855, ch. 399.*]

Jurisdiction ceded. § 2. The jurisdiction of the state of New York in and over the said land or lands mentioned in the last section, when purchased by the United States shall be, and the same is hereby ceded to the United States for the purpose of erecting a custom house, warehouse, court rooms, post office and office for steamboat inspectors, or for either or any of said purposes, and the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said land or lands. [*Thus amended by L. 1855, ch. 399.*]

Concurrent jurisdiction reserved. § 3. The said consent is given and the said jurisdiction ceded, upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said land or lands, so far as that all civil process in all cases, and such criminal or other process as may issue under the laws or authority of the state of New York, against any person or persons charged with crimes or misdemeanors committed within said state,

may be executed therein in the same way and manner as if such consent had not been given, or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Jurisdiction when to vest. § 4. The jurisdiction hereby ceded shall not vest, in respect to said land or lands, until the United States shall have acquired the title to the same by purchase or grant. And so long as the said land or lands shall remain the property of the United States, when acquired as aforesaid, and no longer, the same shall be and continue exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state.

L. 1854, Chap. 17 — An act granting the consent of the state of New York to the purchase, by the United States, of certain lands in the city of Oswego, for the purpose of the erection of a custom house, warehouse, post-office and court-rooms, and ceding jurisdiction over the same.

United States may buy lands. SECTION 1. The consent of the state of New York is hereby given to the purchase, by the United States of America, of any one or more pieces of land situated in the city of Oswego, not exceeding in the whole one acre in quantity, on which to erect a custom-house, warehouse, post-office and court-room; and the said United States may have, hold, use, occupy and own the said land or lands, when purchased, and exercise jurisdiction and control over the same and every part thereof, subject to the restrictions hereinafter mentioned.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York in and over said land or lands mentioned in the last section, when purchased by the United States, shall be and the same is hereby ceded to the United States, for the purpose of erecting a custom-house, warehouse, post-office and court-rooms thereon; and the jurisdiction hereby ceded shall continue no longer than the United States shall own said land or lands.

Concurrent jurisdiction reserved. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said land or lands, so far as that all civil process in all cases, and such criminal or other process as may issue under the laws or authority of the state of New York, against any person or persons charged with crimes or misdemeanors committed within said state, may be executed therein in the same way and manner as if such consent had not been given or jurisdiction ceded.

Jurisdiction when to vest. § 4. The jurisdiction hereby ceded shall not vest, in respect to the said land or lands, until the United States shall have acquired the title to the same by purchase or grant; and so long as the said land or lands shall remain the property of the United States, when acquired as aforesaid, and no longer, the same shall be and continue exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state.

L. 1854, Chap. 181 — An act relinquishing title and ceding jurisdiction to the United States over certain land in the city of Buffalo, to be occupied as a site for a beacon light.

Land ceded. SECTION 1. All the right and title of the state of New York in and to the following piece of land situate in the city of Buffalo, on the east side of Niagara river, and jurisdiction over the same, are hereby released and ceded to the United States, for the purpose of erecting and maintaining a beacon light thereon, to aid the navigation of said river; said lands are bounded and described as follows, to wit:

Beginning at the point of intersection of the westerly line of the Lockport and Buffalo railroad with the southerly line of lot number eight of the state reserve;

thence north eighty-two degrees and ten minutes west, seventy-five feet, more or less, to the towing path of the Erie canal enlargement; thence north two degrees and ten minutes east, seventy-five feet; thence south eighty-two degrees ten minutes east, seventy-five feet, more or less, to the Lockport and Buffalo railroad; thence south two degrees and ten minutes west, seventy-five feet, to the place of beginning.

The commissioners of the land office are hereby authorized to cause a patent of the same to be issued to the United States.

Condition. § 2. The cession aforesaid granted is upon the express condition that this state shall retain a concurrent jurisdiction with the United States in and over the said land, so far that all civil, and such criminal process as may issue under authority of this state against any person or persons charged with crimes committed in the bounds of this state, may be executed therein, in the same manner as though this assent and cession had not been made.

Taxes. § 3. So long as the said land shall remain the property of the United States, and no longer, the same shall be and continue exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state.

Map to be filed. § 4. Before the United States shall commence the construction of any beacon light-house, the light-house inspector having charge of the same shall cause a map of said land to be filed in the office of the secretary of state, and which shall be recorded in his office, also an additional copy in the office of the clerk of Erie county.

L. 1854, Chap. 292—An act ceding jurisdiction to the United States over lands to be occupied as sites of light-houses and keepers' dwellings within this state, and relinquishing title to Little Island, in the Hudson river.

Lands ceded. SECTION 1. Jurisdiction is hereby ceded to the United States over so much land as may be necessary for the construction and maintenance of light-houses and keepers' dwellings, within this state, as the United States may now own or hereafter become owners of, by purchase or otherwise, not to exceed ten acres of land each, the same to be selected by an authorized officer of the United States, approved by the governor, and the boundaries of the land selected with such approval endorsed thereon, and a map thereof filed in the office of the secretary of state, and by him recorded; provided, always, and the assent aforesaid is granted upon this express condition, that this state shall retain a concurrent jurisdiction with the United States in and over the several tracts aforesaid, so far that all civil and such criminal process as may issue under authority of this state, against any person or persons charged with crimes committed within the bounds of this state may be executed therein in the same manner as though this assent had not been granted.

Light houses. § 2. The foregoing shall be applicable only to the lands selected, approved and owned as aforesaid, and a survey thereof filed and recorded as above provided for the construction of the following light-houses, to wit:

For a beacon light on south end of Cow or Campbell's island, in the Hudson river, near Castleton.

For a beacon light on Little island, in the Hudson river, near New Baltimore.

For a beacon light at Priming Hook point, east side of Hudson river, north of Hudson city.

For a beacon light west side of Hudson river, between Athens and Catskill.

Little island ceded. § 3. All the right and title of the people of the state of New York in or to the lands known as Little island, in the Hudson river, opposite New Baltimore, and on which the New Baltimore beacon now stands, is hereby released to the United States.

Title, how acquired. § 4. In case the United States shall desire to purchase any portion of the lands selected in pursuance of the provisions of the first section of this act, and shall be unable to agree for the purchase of the same, it shall have the right to acquire title to the same in the manner hereinafter prescribed.

Commissioners. § 5. For the purpose of acquiring title, the United States may present a petition, praying for the appointment of commissioners of appraisal, to the supreme court of the district in which the premises described in said petition are situated, at a general or special term thereof. Such petition shall contain a description of the real estate required, and that the United States cannot acquire title by agreement, and the reason therefor, and shall be verified by the authorized agent of the United States, according to the rules and practice of said courts. Said petition shall contain the names and places of residence of all persons owning or claiming to own or have any interest in said premises, and particularly who of them are infants, persons of unsound mind, or idiots, as far as same by reasonable diligence can be obtained. A copy of said petition, with notice of time and place when the same will be presented, must be served on all persons named in said petition as interested, in the manner prescribed for the service of similar petitions by railroad companies by the fourteenth section of the act entitled "An act to authorize the formation of railroad companies and to regulate the same," passed April 2, 1850.

Appraisal. § 6. On presenting such petition, and no sufficient cause be shown against the same, the court shall appoint three disinterested persons to appraise the said premises, under oath, who shall report to said court of the proceedings and the amount of their appraisal, containing a description of the premises appraised, which report the said court may confirm on such notice as they may direct, if in their opinion such confirmation is proper.

Perfecting title. § 7. The order of confirmation shall contain a recital of the proceedings on said petition, and a description of the premises appraised. The amount of costs and expenses and counsel fees of said proceedings to be ascertained and settled by said court, and a direction to whom the money, including amount of said appraisal and such costs, expenses and counsel fees, is to be paid, or in what bank, or in what manner it shall be deposited by the United States; and on recording a certified copy of such order, at full length, in the office of the clerk of the county in which said premises are situated, which the said clerk is hereby authorized to record, and on payment or deposit by the United States of the sums to be paid as compensation for land, and for cost and expenses of said proceedings, to be determined by said court, as directed by said order, the title of said premises mentioned in said order shall vest to the United States, so long as the same shall be used for the purposes mentioned in this act.

Compensation. § 8. The commissioners appointed in pursuance of this act shall be entitled, each, to three dollars a day for every day actually engaged.

L. 1855, Chap. 5—An act ceding jurisdiction to the United States over lands to be occupied as sites of light-houses and keepers' dwellings within this state.

Jurisdiction ceded. SECTION 1. Jurisdiction is hereby ceded to the United States over so much land as may be necessary for the construction and maintenance of light-houses and keepers' dwellings, within this state, as the United States may now own or hereafter become owners of, by purchase or otherwise, not to exceed ten acres of land each, the same to be selected by an authorized officer of the United States, approved by the governor, and the boundaries of the land selected with such approval endorsed thereon, and a map thereof filed in the office of the secretary of state, and by him recorded; provided always, and the assent aforesaid is granted upon this express condition, that this state shall retain a concurrent jurisdiction with the United States, in and over the several tracts aforesaid, so far

that all civil and such criminal process as may issue under authority of this state, against any person or persons charged with crimes committed within the bounds of this state, may be executed therein in the same manner as though this assent had not been granted.

Light-houses. § 2. The foregoing shall be applicable only to the lands selected, approved, and owned as aforesaid, and a survey thereof filed and recorded as above provided, for the construction of the following light houses, to wit:

For a first class light-house near "Great West bay," Suffolk county, Long island, New York.

For a beacon light at Lloyd's harbor, Suffolk county, Long island, New York.

For a light-house at Horton's point, Suffolk county, Long island, New York.

For light-house at Race point, Fisher's island, Suffolk county, New York.

For a light-house at or near Windmill point, Lake Champlain, New York.

For a beacon light on "Isle au Motte," Lake Champlain, New York.

For nine beacon lights near Whitehall, Lake Champlain, New York.

Title, how purchased. § 3. In case the United States shall desire to purchase any portion of the lands selected in pursuance of the provisions of the first section of this act, and shall be unable to agree on the purchase of the same, it shall have the right to acquire title to the same in the manner hereinafter prescribed.

Proceedings to acquire title. § 4. For the purpose of acquiring title, the United States may present a petition, praying for the appointment of commissioners of appraisal, to the supreme court of the district in which the premises described in the petition are situated, at a general or special term thereof. Such petition shall contain a description of the real estate required, and that the United States cannot acquire title by agreement, and the reason therefor, and shall be verified by the authorized agent of the United States, according to the rules and practice of said courts. Said petition shall contain the names and places of residence of all persons owning or claiming to own or have any interest in said premises, and particularly who of them are infants, persons of unsound mind, or idiots, as far as the same by reasonable diligence can be obtained. A copy of said petition, with notice of time and place when the same will be presented, must be served on all persons named in said petition as interested, in the manner prescribed for the service of similar petitions by railroad companies, by the fourteenth section of the act entitled "An act to authorize the formation of railroad companies and to regulate the same," passed April second, eighteen hundred and fifty, and also the several acts amending the same.

Appraisal. § 5. On presenting such petition, and no sufficient cause be shown against the same, the court shall appoint three disinterested persons to appraise the said premises, under oath, who shall report to said court of the proceedings and amount of their appraisal, containing a description of the premises appraised, which report the said court may confirm on such notice as they may direct, if in their opinion such confirmation is proper.

Confirmation of title. § 6. The order of confirmation shall contain a recital of the proceedings on said petition, and description of the premises appraised. The amount of costs and expenses and counsel fees of said proceedings to be ascertained and settled by said court, and a direction to whom the money, including the amount of said appraisal and such costs, expenses and counsel fees, is to be paid, or in what bank, or in what manner it shall be deposited by the United States; and on recording a certified copy of such order, at full length, in the office of the clerk of the county in which said premises are situated, which the said clerk is hereby authorized to record, and on payment or deposit by the United States, of the sums to be paid as compensation for land, and for costs and expenses of said proceedings, to be determined by said court, as directed by said order, the title of said premises mentioned in said order shall invest to the United States, so long as the same shall be used for the purposes mentioned in this act.

Compensation. § 7. The commissioners appointed in pursuance of this act shall be entitled each to three dollars a day for every day actually engaged.

L. 1855, Chap. 7—An act authorizing the Hudson River Railroad Company to convey to the United States of America, one-half of an acre of land at Prymon's Hook, in the county of Columbia, for a site for a beacon light.

Hudson River Railroad company authorized to convey land to United States. SECTION 1. The Hudson River Railroad company are hereby authorized to convey to the United States, one-half an acre of land, now in possession of said company, at Prymon's Hook, otherwise called Priming Hook point, Columbia county, New York.

L. 1855, Chap. 19—An act to release the right, title and interest of this state, to certain lands and property in Columbia and Rensselaer counties, to the United States of America.

Title ceded. SECTION 1. That all the right, title and interest of the people of the state of New York, in and to the following pieces of land, situate a portion thereof in the county of Columbia, and the residue in the county of Rensselaer, that is to say:

Calver's plat. All that certain piece or parcel of land consisting of one acre of the south point of the island known as Calvers plat. Said island lies in the Hudson river, part in the county of Columbia, and part in the county of Rensselaer, and in the town of Schodack: the said acre conveyed under this title is bounded as follows: beginning at a stake and stones at the south point of said Calvers plat, and runs north to stake and stones at a point on the west side of said island, six chains; thence south eighty-five and a half degrees east, three chains to high water mark, to the water's edge on the east shore of said island; then south twelve and one-quarter degrees west, three chains and eleven links to a point on the shore; thence south seventy-three and three-quarter degrees west, one chain and seventy-five links to a point on the shore; then south thirty-five and one-half degrees west, two chains and thirty links to the place of beginning at the south point of said island.

Land near Mull's plat. All that certain piece or point of land lying in the Hudson river, in the county of Rensselaer, and state of New York, lying north of a line running south seventy-six degrees and forty-five minutes east, and more particularly described as follows, viz.: beginning at a stake set up at the west side of an island known as Mull's plat, on a course of south seventy-six degrees and forty-five minutes east from the northeast corner of Barrent Ten Eyck's brick house, now occupied by Thomas C. Houghtailing, and runs from the said stake along a line of marked trees standing on the north point of an island known as Parcey's island, and now in the possession of the parties of the first part, and then runs from the aforesaid stake south seventy-six degrees and forty-five minutes east, six chains and sixty links to the water's edge on the east side of the aforesaid island; then northerly along the water's edge and east side thereof, to the north point of the aforesaid island; then southerly along the water's edge and west side to the place of beginning, containing an acre of land, be the same more or less.

Poplar island. All that certain piece or parcel of land situate, lying and being in the town of Schodack, county of Rensselaer, and state of New York, and on the north end of an island known by the name of Poplar island, bounded and described as follows, viz.: beginning at a stake set upon the west shore of the aforesaid island, and on a course of south seventy-eight degrees and thirty minutes east from the northeast corner of William O. Lawton's brick store, and runs thence from the said stake, north seventy-eight degrees and thirty minutes east, three chains and sixty links to a stake on the east side of said island; then along the

east side thereof, north nine degrees west, three chains and fifty-nine links, to a point on the north end of the aforesaid island; then south eighty degrees west, two chains, to a point on the north and west shore of said island; then along the west shore thereof, south fourteen degrees and fifteen minutes west, four chains and four links, to the place of beginning, containing one acre of land be the same more or less, is hereby released to the United States of America, for the construction and maintenance of lighthouses, beacons, and keepers' dwellings, provided, before this act shall vest in the United States any title now belonging to this state to either of said pieces of land, the United States shall have procured the title to said pieces of land of and from the persons claiming and possessing the same.

L. 1855, Chap. 115—An act granting the consent of the state of New York to the purchase by the United States, of certain lands in the village of Plattsburg, for the purpose of the erection of a custom house, warehouse, post-office and court rooms, and ceding jurisdiction over the same.

Jurisdiction ceded. SECTION 1. The consent of the State of New York is hereby given to the purchase, by the United States of America, of any one or more pieces of land situated in the village and town of Plattsburg, not exceeding in the whole one acre and a half in quantity, on which to erect a custom house, warehouse, post-office and court room, or either of them; and the said United States may have, hold, use, occupy and own the said land or lands, when purchased, and exercise jurisdiction and control over the same and every part thereof, subject to the restrictions hereinafter mentioned.

Cession, for what purpose. § 2. The jurisdiction of the state of New York in and over said land or lands mentioned in the last section, when purchased by the United States, shall be and the same is hereby ceded to the United States, for the purpose of erecting a custom house, warehouse, post-office and court rooms, or either of them thereon; and the jurisdiction hereby ceded shall continue no longer than the United States shall own said land or lands.

Concurrent jurisdiction. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States, in and over the said land or lands, so far as that all civil process in all cases, and such criminal or other process as may issue under the laws or authority of the state of New York, against any person or persons charged with crimes or misdemeanors committed within said state, may be executed therein, in the same way and manner as if such had not been given or jurisdiction ceded.

Jurisdiction when to vest in U. S. § 4. The jurisdiction hereby ceded shall not vest, in respect to the said land or lands, until the United States shall have acquired the title to the same by purchase or grant; and so long as the said land or lands shall remain the property of the United States, when acquired as aforesaid, and no longer, the same shall be and continue exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state.

L. 1855, Chap. 218—An act ceding jurisdiction to the United States over land to be occupied as a site for a light-house and keeper's dwelling within this state.

Jurisdiction ceded. SECTION 1. Jurisdiction is hereby ceded to the United States over so much land as may be necessary for the construction and maintenance of a light-house and keeper's dwelling within this state, as the United States may now own or hereafter become owners of, by purchase or otherwise, not to exceed ten acres of land; the same to be selected by an authorized officer of the United

States, approved by the governor; and the boundaries of the land selected, with such approval endorsed thereon, and a map thereof filed in the office of the secretary of state, and by him recorded; provided always, and the assent aforesaid is granted upon this express condition, that this state shall retain a concurrent jurisdiction with the United States in and over the tract aforesaid, so far that all civil and such criminal process as may issue under authority of this state against any person or persons charged with crime committed within the bounds of this state, may be executed therein in the same manner as though this assent had not been granted.

Light-house at Crown Point. § 2. The foregoing shall be applicable only to the lands selected, approved and owned as aforesaid, and a survey thereof filed and recorded as above provided, for the construction of the following light-house and keeper's dwelling, to wit: for a light-house at or near Crown Point, lake Champlain, New York.

Title, how acquired. § 3. In case the United States shall desire to purchase any portion of the land selected in pursuance of the provisions of the first section of this act, and shall be unable to agree for the purchase of the same, it shall have the right to acquire title to the same in the manner hereinafter prescribed.

Proceedings. § 4. For the purpose of acquiring title, the United States may present a petition, praying for the appointment of commissioners of appraisal, to the supreme court of the district in which the premises described in the petition are situated, at a general or special term thereof. Such petition shall contain a description of the real estate required, and that the United States cannot acquire title by agreement, and the reason therefor, and shall be verified by the authorized agent of the United States, according to the rules and practice of said courts. Said petition shall contain the names and places of residence of all persons owning or claiming to own or have any interest in said premises, and particularly who of them are infants, persons of unsound mind, or idiots, as far as the same by reasonable diligence can be obtained. A copy of said petition, with notice of time and place when the same will be presented, must be served on all persons named in said petition as interested, in the manner prescribed for the service of similar petitions by railroad companies, by the fourteenth section of the act entitled, "An act to authorize the formation of railroad companies and to regulate the same," passed April second, eighteen hundred and fifty, and also the several acts amending the same.

Appraisers. § 5. On presenting such petition, and no sufficient cause be shown against the same, the court shall appoint three disinterested persons to appraise the said premises under oath, who shall report to said court of the proceedings and amount of their appraisal, containing a description of the premises appraised; which report the said court may confirm on such notice as they may direct, if in their opinion such confirmation is proper.

Confirmation. § 6. The order of confirmation shall contain a recital of the proceedings of said petition, and description of the premises appraised. The amount of costs and expenses and counsel fees of said proceedings, to be ascertained and settled by said court, and a direction to whom the money, including the amount of said appraisal and such costs, expenses and counsel fees, is to be paid, or in what bank, or in what manner it shall be deposited by the United States, and on recording a certified copy of said order, at full length, in the office of the clerk of the county in which said premises are situated, which the said clerk is hereby authorized to record; and on payment or deposit by the United States of the sums to be paid as compensation for land, and for costs and expenses of said proceedings, to be determined by said court, as directed by said order, the title of said premises mentioned in said order shall invest to the United States, so long as the same shall be used for the purposes mentioned in this act.

Compensation. § 7. The commissioners appointed in pursuance of this act shall be entitled, each, to three dollars a day for every day actually engaged.

L. 1857, Chap. 19 — An act giving the consent of the state of New York to the purchase, by the United States, of certain property in this state.

Consent given to purchase certain property. SECTION 1. The consent of the state of New York is hereby given to the purchase, by the United States, of the six lots of land with the warehouses thereon erected, in the sixth ward of the city of Brooklyn, on the south pier of the property of the Atlantic Dock Company, known as lots number fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven and fifty-eight, on the said south pier of the Atlantic Dock Company, on a certain map inscribed "map of property in the sixth ward of the city of Brooklyn, port of New York, belonging to the Atlantic Dock Company, surveyed September, eighteen hundred and forty-one, by Willard Day city surveyor." Said lots each being twenty-five feet front and rear, and one hundred feet deep on each side. Said property to be used for revenue purposes. And also to the purchase of the property in the city of New York, fronting on Wall street, now occupied by the United States as an assay office; and also the property north of the same, fronting on Pine street, and also the property adjoining said Pine street property on the east, and now occupied by the United States, for revenue purposes, as offices for the surveyor for the port of New York, and also that piece or parcel of land bounded by Park row, Beekman and Nassau streets, for the purpose of a post-office.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York, in and over the said property shall be, and the same is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

Condition upon which consent is given. § 3. The said consent is given, and the said jurisdiction ceded, upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said property, so far as that all civil and criminal and other process which may issue under the laws or authority of the state of New York, may be executed thereon in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Jurisdiction not to be vested until title is acquired. § 4. The jurisdiction hereby ceded shall not vest, in any respect, to any portion of said property, until the United States shall have acquired the title thereto by purchase or otherwise.

To be released from all taxes, &c.; how long said jurisdiction and exemption shall continue. § 5. The said property, when acquired by the United States, shall be, and continue forever thereafter, exonerated and discharged from all taxes, assessments, and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue in respect to said property and to each portion thereof so long as the same shall remain the property of the United States and be used for public purposes and no longer.

L. 1857, Chap. 39 — An act giving the consent of the State of New York to the purchase by the United States of certain property in this state, at Ogdensburgh.

Consent of state given; description of property; purpose for which used. SECTION 1. The consent of the state of New York is hereby given to the purchase by the United States of all that part of block number forty-five, in the village of Ogdensburgh, county of St. Lawrence, which block is bounded by State, Green, Water and Knox streets, between Knox street and a line drawn across said block from State to Water street, parallel with Knox street, and distant therefrom one hundred and forty-five feet seven inches, for the purposes of a custom house and post-office, with court rooms, at Ogdensburgh, and being one hundred and seventeen

feet and seven inches on Knox street, and one hundred and forty-five feet and seven inches on State street.

Jurisdiction ceded to U. S. § 2. The jurisdiction of the state of New York, in and over the said property, shall be and the same is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

Condition of consent. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said property, so far as that all civil, criminal and other process which may issue under the laws or authority of the state of New York, may be executed thereon in the same way and manner as if such consent had not been given, or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Jurisdiction when to vest. § 4. The jurisdiction hereby ceded shall not vest in any respect to any portion of said property until the United States shall have acquired the title thereto by purchase or otherwise.

To be discharged from all assessments, &c. § 5. The said property, when acquired by the United States, shall be, and continue forever thereafter, exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue in respect to said property, and to each portion thereof, so long as the same shall remain the property of the United States and be used for the purposes aforesaid, and no longer.

L. 1857, Chap. 604 — An act giving the consent of the state of New York, to the purchase by the United States of certain property in the counties of Queens and Richmond, and to cede to the United States jurisdiction thereof.

United States may purchase lands for forts, magazines, &c.; concurrent jurisdiction ceded; title, how acquired; title of state granted. SECTION 1. The consent of the state of New York is hereby given, to the purchase by the United States, of all and each of every tract of land on the island of Long island, in the county of Queens, in a direction opposite Fort Schuyler, East river, that may be acquired by the United States, and that shall be necessary (under the appropriation by congress of March third, eighteen hundred and fifty-seven, for the commencement of a fort opposite Fort Schuyler, New York) for the purpose of building and maintaining thereon forts, magazines, dock-yards, wharves, and other necessary structures, with their appendages and (concurrent jurisdiction is hereby ceded to the United States) over all the contiguous shores, flats and waters within four hundred feet from low-water mark (measured toward the channel), and over the land lying between high and low-water marks, and in case the owners of the said land shall not consent to sell the same on such terms as the United States may deem equitable, the consent of the legislature is hereby given to the United States taking the same for the purpose aforesaid, upon just and full compensation being provided for the owners thereof in the manner prescribed in the fourth article and second title of the ninth chapter and third part of the Revised Statutes; and all right, title and claim which this state may have to or in the premises aforesaid is hereby granted to the United States, subject to the restrictions hereinafter mentioned. [*Thus amended by L. 1875, ch. 114.*]

Id. § 2. The consent of the state of New York is also hereby given to the purchase, by the United States, of all, each and every portion of that tract of land on Staten island, in the county of Richmond, New York, now owned by William H. Aspinwall, who is to convey the same to the United States; said land lying mainly between the land of the United States and New York avenue, for the purpose of building and maintaining thereon, forts, magazines, arsenals, and other necessary structures, with their appendages.

Jurisdiction ceded. § 3. The jurisdiction of the state of New York, in and over the said property referred to and set forth in the first and second sections hereof, shall be and the same is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

Conditions. § 4. The said consent is given, and the said jurisdiction ceded upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said property, so far as that all civil, criminal and other process, which may issue under the laws or authority of the state of New York, may be executed thereon, in the same way and manner as if such consent had not been given, or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Ib. § 5. The jurisdiction hereby ceded shall not vest in any respect to any portion of said property until the United States shall have acquired the title thereto, by purchase or otherwise.

Taxes, &c. § 6. The said property when acquired by the United States, shall be and continue forever thereafter exonerated and discharged from all taxes, assessments, and other charges, which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue in respect to said property, and to each portion thereof, so long as the same shall remain the property of the United States, and be used for the purposes aforesaid, and no longer.

L. 1857, Chap. 762 — An act giving the consent of the state of New York to the purchase by the United States of land in the city of New York.

Consent to purchase land. SECTION 1. The consent of the state of New York is hereby given to the purchase by the United States at any time prior to the first day of January next, of land in the city of New York, for a site for a post office in said city; and the owner or owners of any land in said city are hereby authorized to sell and convey the same to the United States for the purposes aforesaid.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York in and over the land which may be sold and conveyed to the United States in pursuance of the preceding section, shall be, and the same is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

Conditions. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and to the said land, so far as that all civil and criminal and other process which may issue under the laws or authority of the state of New York, may be executed thereon in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Ib. § 4. The jurisdiction hereby ceded shall not vest, in any respect, to any land whatever, until the United States shall have acquired the title thereto by purchase or otherwise.

Land to be exempt from taxes. § 5. The land which may be acquired by the United States under the provisions of this act, shall be and continue forever thereafter exempted and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded and the exemption from taxation hereby granted shall continue in respect to said lands, and to each portion thereof, so long as the same shall remain the property of the United States, and be used for public purposes, and no longer.

L. 1859, Chap. 337 — An act vesting in the United States of America jurisdiction over a certain piece of land in the village of West Troy, in the county of Albany.

Certain lands ceded to United States; in West Troy, town of Watervliet, and county of Albany. SECTION 1. The jurisdiction of the state of New York is hereby ceded to the United States of America for the purposes of erecting and maintaining thereon arsenals, magazines and other necessary buildings, and also of using the grounds hereinafter described, in connection with the arsenal buildings already erected, over all that certain tract, piece or parcel of land, situate, lying and being in the village of West Troy, town of Watervliet, and county of Albany, bounded as follows, to wit: Commencing at a point on the east bank of the Erie canal at the southwest corner of the United States arsenal grounds, and extending thence easterly along the said arsenal grounds to River street; thence southerly along the west line of said River street thirty feet; thence westerly on a line parallel with the said north line, to the west side of the alley next west of said River street; thence southerly along the west side of said alley to a point distant from the said north boundary line two hundred and ninety-three feet and six inches; thence westerly on a line parallel with the said north boundary line, about two hundred and fifty-eight feet to the east bank of the Erie canal; thence northerly along the said east bank of said canal three hundred feet, to the place of beginning.

Condition of cession. § 2. The jurisdiction so ceded to the United States over the said tract of land mentioned in the preceding section is granted upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said tract of land, so far as that civil process in all cases, and such criminal process as may issue under the authority of the state of New York, against any person or persons charged with crimes committed within or without the said tract of land, may be executed thereon in the same way and manner as if this jurisdiction had not been ceded; and this act is to take effect when the purchase by the United States of said tract of land is completed, and the evidences recorded in the office of the clerk of the county of Albany, and not before; and they are to retain such jurisdiction so long as the said tract of land shall be used for the purposes expressed in the foregoing section, and no longer.

L. 1860, Chap. 506 — An act to authorize the corporation of the city of New York to sell certain lands to the United States, and ceding jurisdiction thereof.

Mayor, aldermen, etc., of New York, may sell certain lands to U. States. SECTION 1. The consent of the state of New York is hereby given to the mayor, aldermen and commonalty of the city of New York to grant, bargain, sell and convey to the United States so much and such parts of the ground situate within said city and known as the city hall park, together with any buildings thereon, as the said mayor, aldermen and commonalty may deem proper to sell and convey; and the United States may have, hold, use, occupy and own such grounds and buildings as they may thus acquire, and may exercise jurisdiction and control over the same, subject to the restrictions and conditions in this act contained.

Jurisdiction ceded to U. States. § 2. The jurisdiction of the state of New York in and over such of said grounds as may be sold and conveyed as above provided, shall be and the same is hereby, from and after the time of such sale and conveyance, ceded to the United States.

Conditions. § 3. The said consent is given, and the said jurisdiction is ceded upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said grounds so far as that all civil or criminal process which may issue under the laws or authority of said state may be executed therein in the same manner as if such consent had not been

given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States; and upon the further condition that the said mayor, aldermen and commonalty shall, before such sale and conveyance, procure the consent, in writing, of the governor, secretary of state and attorney-general approving of such sale and of the terms and conditions thereof.

Lands conveyed to the United States to be free from taxation. § 4. In case of a sale and conveyance of any of said grounds as in this act provided, the lands so sold and conveyed, and the buildings and property therein, shall be from the time of such sale exonerated and discharged from all taxes and assessments which may be levied or imposed under the authority of this state while the said land shall remain the property of the United States, but not otherwise.

L. 1861, Chap. 118—An act giving the consent of the state of New York to the purchase, by the United States, of land in the city of New York for the purpose of a post office.

Consent to purchase lands in New York city. SECTION 1. The consent of the state of New York is hereby given to the purchase, by the United States, of any lands in the city of New York for a site for a post office, not exceeding in area fifty thousand square feet.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York in and over said lands is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

Conditions of cession. § 3. The said consent is given and the said jurisdiction is ceded upon the express condition, that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said land, so far as that all civil or criminal process which may issue under the laws or authority of said state may be executed therein, in the same manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Jurisdiction when to vest. § 4. The jurisdiction hereby ceded shall not vest in any respect to said lands, until the United States shall have acquired the title thereto, by purchase or otherwise.

Exempt from taxes. § 5. The said land acquired under the provisions of this act, shall be and continue forever thereafter exempted and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue in respect to said land so long as the same shall remain the property of the United States, and be used for public purposes, and no longer.

L. 1861, Chap. 223—An act relinquishing title and ceding jurisdiction to the United States over certain land in the city of Oswego to be occupied as a pier, and to rescind the contract of a sale of said land.

Title of state to certain lands granted to U. S. in city of Oswego. SECTION 1. All the right and title of the state of New York in and to the following piece of land, situate in the first ward of the city of Oswego, and jurisdiction over the same, are hereby released and ceded to the United States, for the purpose of erecting, repairing and maintaining a pier for the protection of the harbor of Oswego; said land is bounded and described as follows: Commencing at the southwestern angle of the cut stone work of the United States pier, runs thence south three degrees west, seven feet, to the east side line of Third street; thence south seventeen degrees east along said street line, thirty-six feet; thence south eighty-seven degrees east, one hundred and fifteen feet; thence north three degrees

east, two hundred and sixty-one feet, to a point in the west line of Second street prolonged; thence north seventeen degrees west, along said Second street, one hundred and twenty feet, to the northerly side of the United States pier; thence south fifty-six degrees thirty minutes west, along the northern line of said pier, one hundred and ten feet, to the northwestern angle thereof; thence south seventeen degrees east, along the westerly side of said pier, two hundred and fifty feet to the place of beginning. The commissioners of the land office are hereby authorized to cause a patent of the same to be issued to the United States.

Concurrent jurisdiction. § 2. The cession aforesaid granted is upon the express condition, that this state shall retain a concurrent jurisdiction with the United States in and over the said lands, so far that all civil, and such criminal process as may issue under authority of this state, against any person or persons charged with crime committed in the bounds of this state, may be executed therein, in the same manner as though this assent and cession had not been made.

Free from taxes. § 3. So long as the said lands shall remain the property of the United States and no longer, the same shall be and continue exonerated and discharged from all taxes, assessments and other charges, which may be levied or imposed under the authority of this state.

Commissioners of land office. § 4. The commissioners of the land office are hereby authorized and required to ascertain and determine what payment of principal and interest have been made to the state upon a sale of certain premises situate in the first ward of the city of Oswego, described in a certificate of sale bearing date April fourth, eighteen hundred and fifty-four, and executed by John T. Clark, state engineer and surveyor, to Moses P. Hatch and others, the date and amount of each payment respectively, and the amount of interest upon each said payment from the date they were respectively made to the tenth day of April, eighteen hundred and sixty-one, and also the amount of taxes which have been paid upon said premises by the purchasers thereof and their assignees since April fourth, eighteen hundred and fifty-four.

Treasurer to pay certain parties, etc. § 5. The treasurer shall pay to Frederick T. Carrington, Luther Wright, Abraham P. Grant and Morris Bennett, the present owners of such land, on the warrant of the comptroller, out of any money in the treasury not otherwise appropriated, such sum as shall be ascertained by the commissioners of the land office to be the gross amount of money paid to the state for principal and interest upon such purchase, together with the interest on such sums respectively, and the taxes and assessments paid thereon, after deducting the amount received by said purchasers for rents, issues, and profits of said lands.

Rescission. § 6. The commissioners of the land office are hereby authorized and required to rescind and cancel the said certificate of sale so made by John T. Clark, state engineer and surveyor, to Moses P. Hatch and others, bearing date the fourth day of April, eighteen hundred and fifty-four, and to cancel and surrender the bond given on such purchase.

L. 1861, Chap. 313 — An act giving the consent of the state of New York to the purchase by and ceding jurisdiction to the United States, over certain lands within this state, to be occupied as sites of light-houses, keepers' dwellings, and fortifications and their appurtenances.

Consent to cede "Sister islands" in St. Lawrence river. SECTION 1. The consent of the state of New York is hereby given to the purchase, by the United States, at any time prior to the first day of January next, of the islands in the St. Lawrence river, and in St. Lawrence county, known and designated as the "Sister islands," being two islands situated near the most easterly point of Grenadier island, in Canada, for a site for a light-house, and the owner or owners of said islands are hereby authorized to sell and convey the same to the United States for the purposes aforesaid.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York in and over the said islands is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

Condition as to jurisdiction. § 3. The said consent is given and the said jurisdiction ceded upon the express condition, that the state of New York, shall retain a concurrent jurisdiction with the United States in and to said islands, so far as that all civil, criminal and other process, which may issue under the laws or authority of the state of New York, may be executed thereon in the same way or manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

When to vest. § 4. The jurisdiction hereby ceded shall not vest, in any respect, to said island, until the United States shall have acquired the title thereto by purchase or otherwise.

Jurisdiction ceded on certain grounds and for certain reasons. § 5. Jurisdiction is hereby ceded to the United States over so much land as may be necessary for the construction and maintenance of light-houses and keepers' dwellings, within this state, as the United States may now own or hereafter become owners of, by purchase or otherwise, not to exceed ten acres of land each, the same to be selected by an authorized officer of the United States, approved by the governor, and the boundaries of the land selected with such approval indorsed thereon, and a map thereof filed in the office of the secretary of state, and by him recorded; provided, always, and the assent aforesaid is granted upon this express condition that this state shall retain a concurrent jurisdiction with the United States in and over the several tracts aforesaid, so far that all civil and such criminal process as may issue under authority of this state, against any person or persons charged with crimes committed within the bounds of this state may be executed therein in the same manner as though this assent had not been granted.

Survey, etc.; purposes. § 6. Jurisdiction is also ceded as aforesaid to the lands selected, approved and owned as aforesaid, and a survey thereof filed and recorded as above provided, for the construction of the following beacon lights, to wit:

1. For a beacon light on the eastern shore of the river near the lower end of Fish House bar.
2. For a beacon light on a dyke above Fish House bar.
3. For a beacon light on the southern part of an island near Round shoal. All of which are situated in or on the Hudson river, between Albany and Troy.

Fortifications; concurrent jurisdiction. § 7. Jurisdiction is also hereby ceded to the United States over so much land as may be necessary for the construction and maintenance of fortifications and their appurtenances, and over all the contiguous shores, flats and waters within four hundred yards from low water mark within this state, as the United States may now own or hereafter become owners of, by purchase or otherwise, not to exceed one hundred and fifty acres, the same to be selected by an authorized officer of the United States, approved by the governor, and the boundaries of the land selected, with such approval endorsed thereon, and a map thereof filed in the office of the secretary of state, and by him recorded; provided, always, and the assent aforesaid is granted upon this express condition, that this state shall retain a concurrent jurisdiction with the United States in and over the several tracts aforesaid, so far that all civil and such criminal process as may issue under authority of this state, against any person or persons charged with crimes committed within the bounds of this state, may be executed therein in the same manner as though this assent had not been granted, except so far as such process may affect the real or personal property of the United States; for the purpose of building and maintaining thereon batteries, forts, magazines, wharfs and other necessary structures, with their appendages, adjacent to Fort Hamilton, Kings county, Long island, and adjacent to Fort Tompkins in the town of Southfield, county of Richmond, Staten island. [*Thus amended by L. 1862, ch. 12.*]

How U. S. may acquire title in certain cases. § 8. In case the United States shall desire to purchase any land selected in pursuance of the first and seventh sections of said act, or either of said sections, and shall be unable to agree for the purchase of the same, it shall have the right to acquire title to the same in the manner hereinafter prescribed, provided however, that a due regard be had to the improvements and buildings on the same, the damage, if any, to the adjacent lands now belonging to the same owners, and that the title be acquired before the first day of January, eighteen hundred and sixty-three. [*Thus amended by L. 1862, ch. 12.*]

How to acquire title, etc. § 9. For the purpose of acquiring title, the United States may present a petition praying for the appointment of commissioners of appraisal, to the supreme court of the district in which the premises described in the petition are situated, at a general or special term thereof. Such petition shall contain a description of the real estate acquired, and that the United States cannot acquire title by agreement, and the reason therefor, and shall be verified by the authorized agent of the United States, according to the rules and practice of said courts. Said petition shall contain the names and places of residence of all persons owning or claiming to own or have any interest in said premises, and particularly who of them are infants, persons of unsound mind, or idiots, as far as the same, by reasonable diligence, can be obtained. A copy of said petition, with notice of time and place when the same will be presented, must be served on all persons named in said petition as interested, in the manner prescribed for the service of similar petitions by railroad companies by the fourteenth section of the act entitled "An act to authorize the formation of railroad companies and to regulate the same," passed April second, eighteen hundred and fifty, and also the several acts amending the same.

On presenting petition. § 10. On presenting such petition, and no sufficient cause be shown against the same, the court shall appoint three disinterested persons to appraise the said premises, under oath, who shall report to said court of the proceedings and amount of their appraisal, containing a description of the premises appraised, which report the said court may confirm on such notice as they may direct, if, in their opinion, such confirmation is proper.

Order of confirmation. § 11. The order of confirmation shall contain a recital of the proceedings on said petition and a description of the premises appraised. The amount of costs and expenses and counsel fees of said proceedings, to be ascertained and settled by said court, and a direction to whom the money, including the amount of said appraisal, and such costs, expenses and counsel fees is to be paid, or in what bank, or in what manner it shall be deposited by the United States; and on recording a certified copy of such order at full length in the office of the clerk of the county in which said premises are situated, which the said clerk is hereby authorized to record, and on payment or deposit by the United States of the sums to be paid as compensation for land and for costs and expenses of said proceedings, to be determined by said court, as directed by said order, the title of said premises mentioned in said order shall vest in the United States, so long as the same shall be used for the purposes mentioned in this act.

Compensation of commissioners. § 12. The commissioners of appraisal appointed in pursuance of this act shall be entitled each to one hundred dollars compensation for their services, provided however that they make their report within thirty days after their appointment and before receiving said compensation. Said commissioners shall be residents of the county in which the said lands respectively are situated or of the city and county of New York. In case any such commissioner shall die, decline, resign, or for any other reason be unable to serve, the court designated in said act shall appoint another in his place. [*Thus amended by L. 1862, ch. 12.*]

Lands free from taxes. § 13. The said property when acquired by the United States shall be and continue forever thereafter exonerated and discharged from all taxes, assessments, and other charges, which may be levied or imposed under

the authority of this state; but the jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue in respect to said property, and to each portion thereof, so long as the same shall remain the property of the United States, and be used for the purposes aforesaid, and no longer.

L. 1862, Chap. 253—An act to cede the jurisdiction of this state to the United States over lands in the city of Buffalo.

Consent to cede lands in Buffalo; jurisdiction. SECTION 1. Consent is hereby given to the government of the United States of America to purchase such lands in the city of Buffalo for the erection of forts, magazines, arsenals, dock-yards and other needful buildings as it shall deem necessary for the protection and defence of said city, and on acquiring title thereto the jurisdiction over the same shall vest in the said United States; but the jurisdiction hereby granted shall not impede or prevent the execution of any legal process, civil or criminal, under the authority of this state, except such as may affect the real or personal property of said United States.

When jurisdiction shall cease. § 2. The jurisdiction hereby granted shall cease whenever the said United States shall cease to occupy said lands for the purposes aforesaid, but during such occupancy, and no longer, said lands shall be exempt from all taxes, assessments or other charges under the authority of this state.

L. 1865, Chap. 523—An act granting the consent of the state of New York to the purchase by the United States of certain property in the city of New York, for a custom house, and ceding jurisdiction over the same.

Land described. SECTION 1. The consent of the state of New York is hereby given to the purchase by the United States of all that certain tract, piece or parcel of ground, real estate and premises situate, lying and being in the first ward of the city of New York, and constituting the entire square formed by Wall, William and Hanover streets, and Exchange place, and the exchange building and improvements erected thereon, covering the whole of said square, for the purpose of a custom house.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York in and over the said property, shall be, and the same is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

Condition of cession. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said property, so far as that all civil and criminal process, which may issue under the laws or authority of the state of New York, may be executed thereon in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Title to property. § 4. The jurisdiction hereby ceded shall not vest in any respect, to any portion of said property, until the United States shall have acquired the title thereto by purchase or otherwise.

Exemption from taxes, etc. § 5. The said property, when acquired by the United States, shall be, and continue forever thereafter, exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue in respect to said property, so long as the same shall remain the property of the United States and be used for public purposes, and no longer.

L. 1865, Chap. 689—An act ceding jurisdiction over certain lands on Staten island to the United States.

Lands ceded. SECTION 1. The jurisdiction of this state over all that portion of the marine hospital grounds on Staten island which may hereafter be conveyed to the United States for light house and other purposes, by the commissioners of the land office, under the authority of any law of this state, is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

Reservation. § 2. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said property, so far as that all civil and criminal process which may issue under the laws or authority of the state of New York, may be executed thereon in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Property. § 3. The jurisdiction hereby ceded shall not vest in any respect to any portion of said property, until the United States shall have acquired the title thereto by purchase or otherwise.

Exemption from taxes. § 4. The said property, when acquired by the United States, shall be, and continue forever thereafter, exonerated and discharged from all taxes, assessments, and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded and the exemption from taxation hereby granted shall continue, in respect to said property, so long as the same shall remain the property of the United States and be used for public purposes, and no longer.

L. 1866, Chap. 154—An act ceding jurisdiction to the United States over certain lands under water in the lower bay of New York.

West bank and Orchard shoals. SECTION 1. Jurisdiction over such portion of the lands under water comprising what is known as West Bank in the lower bay of the port of New York, and Old Orchard shoals, is hereby ceded to the United States, as may be required and occupied by the said United States in the erection thereon of wharves and ware-houses for the reception of goods and merchandise arriving in said port in vessels subject to quarantine by the laws of this state, which goods and merchandise shall be under the direction and control for quarantine purposes of the health officer of the port of New York, but such cession shall be subject to the right to serve thereon any process, either civil or criminal, issued under the authority of the laws of this state.

L. 1866, Chap. 862—An act to cede the title and jurisdiction over certain lands to the United States.

Commissioners of land-office to cede off battery extension, etc., to the United States. SECTION 1. The commissioners of the land-office are hereby authorized and directed to cede and convey to the United States of America all the estate, right, title and interest of this state to so much and such portion or portions of the easterly end or extremity of the lands and lands under water, commonly known as the battery extension, in the city of New York, with the open slip or basin at the easterly end thereof, as may be required by the United States of America, not exceeding two hundred and fifty feet, and necessary for the purpose of erecting and establishing a barge office and other suitable buildings and structures for the transaction of the public business connected with the United States revenue service, and for the landing of revenue and other government boats and barges for the use, convenience and accommodation of the United States custom house for the port of New York.

Mayor and aldermen of New York empowered to grant, &c. § 2. The mayor, aldermen and commonalty of the city of New York are hereby permitted, authorized and empowered to cede, grant and convey to the United States of America, upon such terms and for such price as may be agreed upon with the authorities of the United States, all their estate, right, title and interest of, in and to the same lands, premises and appurtenances, and the slip or basin eastwardly adjacent thereto, for the same objects, uses and purposes as expressed in the first section of this act; and also to further cede, grant and convey to the United States a right of way or passage of not less than seventy-five feet in width from the aforesaid lands and premises, over and across the lands adjacent thereto, known as the battery ground, for purposes of ingress and egress to and from Whitehall street in said city.

Jurisdiction ceded. § 3. The jurisdiction over such lands, waters and premises as shall be conveyed by virtue of the first and second sections of this act for the purposes therein mentioned, from and after the conveyance of such lands, premises and waters, and upon the execution thereof, shall be ceded to and vest in the United States of America, but such jurisdiction shall not impede the execution of any process, civil or criminal, issued under the authority of this state, except so far as such process may affect the real or personal property of the United States within the ceded territory.

From what said lands to be excepted. § 4. The lands and premises which may be acquired by the United States under the provisions of this act are hereby declared to be and are hereby excepted from the provisions and obligations of the several acts of the legislature of this state requiring the filling in, completion and extension of the battery in the said city of New York; but so far as such lands and premises are concerned, the same shall be filled in and completed by and at the expense of the United States, to the extent and in such manner only, however, as may be necessary for the uses and purposes expressed in the first section of this act.

And exempted. § 5. The lands and premises which may be acquired by the United States under the provisions of this act, shall be and continue forever thereafter exempted and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state; but the title to said lands and premises thus acquired, and the jurisdiction hereby ceded, and the exemption hereby granted, shall continue in respect to said lands and premises, and to each portion thereof, so long as the same shall remain the property of the United States, and be used for the purposes aforesaid and no longer.

L. 1867, Chap. 186.—An act vesting in the United States of America jurisdiction over certain pieces of land in the village of West Troy, in the county of Albany.

Boundaries of land ceded. SECTION 1. Jurisdiction is hereby ceded to the United States of America over all that certain tract, piece, or parcel of land situate, lying and being in the village of West Troy, town of Watervliet, and county of Albany, bounded as follows, to wit: commencing at a point on the east bank of the Erie canal, and which is the south-west corner of lands conveyed by Albert G. Sage to the United States, by deed bearing date the seventh day of April, eighteen hundred and fifty-nine, and runs thence easterly along the southerly line of said lands so conveyed by said Sage as aforesaid, about two hundred and fifty-eight feet to the west side of the alley next west of River street or Broadway; thence southerly along the west line of said alley and said line extended, about three hundred feet and six inches; thence westerly along the south line of the Gibbons property, so called, about one hundred and ninety-three feet to the east bank of said Erie canal; and thence northerly along said east bank of said Erie canal, three hundred and forty-six feet, more or less, to the place of beginning.

And also all that certain other tract, piece or parcel of land situate, lying and being in said village of West Troy, bounded as follows, to wit: Commencing at a point on River street or Broadway, and being the southeasterly corner of the arsenal grounds, as possessed and occupied by the United States prior to the year eighteen hundred and fifty-nine, and runs thence southerly along the west line of said River street or Broadway about three hundred and twenty feet to the north line of lot number sixty-two, as laid down on the original map of Gibbonsville; and runs thence westerly along the north line of said lot number sixty-two and said line extended to the west line of the alley next west of said River street or Broadway; thence northerly along the west line of said alley about three hundred and twenty feet to the southerly line of the arsenal grounds, as possessed and occupied by the United States prior to the year eighteen hundred and fifty-nine; and thence easterly along the southerly line of the said arsenal grounds to the place of beginning.

Concurrent jurisdiction. § 2. The state of New York retains a concurrent jurisdiction with the United States in and over the said lands, so far forth that all civil and criminal process which may issue under the laws or authority of the state of New York may be executed thereon, in the same way and manner as if this jurisdiction had not been ceded, when such process does not affect the real or personal property of the United States. This act takes effect when the United States has acquired, by purchase or otherwise, the title to said tract of land and has recorded the evidence of such title in the office of the clerk of the county of Albany, and not before.

Exemption from taxes. § 3. The said property, when acquired by the United States, shall be and continue forever thereafter exonerated and discharged from all taxes and assessments and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded and the exemption from taxation hereby granted shall continue, in respect to said property, so long as the same shall remain the property of the United States and be used for public purposes, and no longer.

L. 1867, Chap. 675—An act ceding to the United States jurisdiction over certain lands in the village of Niagara City, New York.

Lands in Niagara City, for custom-house, etc. SECTION 1. The jurisdiction of the lands and their appurtenances that have been or may be selected or purchased and conveyed at or in the village of Niagara City, New York, to wit: All that piece or parcel of land situate in the village of Niagara City, New York, described as follows: "Beginning at the north-east intersection of Bridge and Spring avenues, and running in a northerly direction along said Spring avenue eighty-six feet and seven inches; thence running easterly in a line parallel with the line of Bath avenue sixty-four feet, more or less, to a point sixteen feet from the lands of the New York Central Railroad Company; thence northerly to Bath avenue, parallel with and distant sixteen feet from the said lands of the New York Central Railroad Company; thence easterly along Bath avenue sixteen feet; thence southerly one hundred and seventeen feet eleven inches, more or less, to the line of Bridge avenue; and thence westerly along the line of Bridge avenue seventy-five feet, to the point or place of beginning, for the purpose of a custom-house and post-office, be and is hereby ceded to the United States of America; provided, however, that all civil and criminal processes issued under the authority of the said state of New York, or any officer thereof, may be executed on said land, and in the buildings that are or may be erected thereon, in the same manner as if jurisdiction had not been ceded as aforesaid.

Exemption. § 2. The lands above described, with appurtenances, buildings and other property that may be thereon, shall forever hereafter be exempt from

all state, county and municipal taxation and assessments so long as the same shall remain the property of the United States.

L. 1867, Chap. 720—An act ceding jurisdiction to the United States over land to be occupied as sites for light-houses and keepers' dwellings within this state.

Jurisdiction of United States over lands for light-houses. SECTION 1. Jurisdiction is hereby ceded to the United States over so much land as may be necessary for the construction and maintenance of light-houses and keepers' dwellings within this state, as the United States may now own or hereafter become owners of, by purchase or otherwise, not to exceed ten acres of land for each, the same to be selected by an authorized officer of the United States, approved by the governor; and the boundaries of the land selected, with such approval indorsed thereon, and a map thereof filed in the office of the secretary of state, and by him recorded; provided always, and the assent aforesaid is granted upon this express condition, that this state shall retain a concurrent jurisdiction with the United States in and over the tracts aforesaid, so far that all civil and such criminal process as may issue under authority of this state against any person or persons charged with crime committed within the bounds of this state, may be executed therein in the same manner as though this assent had not been granted.

Parcels located. § 2. The foregoing shall be applicable only to the lands selected, approved and owned as aforesaid, and a survey thereof filed and recorded as above provided, for the construction of the following light-houses and keepers' dwellings, to wit: For a light-house on North Brother island or vicinity, East river, New York; for a light-house on Hart island or vicinity, western end of Long Island sound, New York.

Right to acquire title. § 3. In case the United States shall desire to purchase any portion of the land selected in pursuance of the provisions of the first section of this act, and shall be unable to agree for the purchase of the same, it shall have the right to acquire title to the same in manner hereinafter prescribed.

And method of accomplishing the same. § 4. For the purpose of acquiring title, the United States may present a petition praying for the appointment of commissioners of appraisal to the supreme court of the district in which the premises described in the petition are situated, at a general or special term thereof. Such petition shall contain a description of the real estate required, and that the United States cannot acquire title by agreement, and the reason therefor, and shall be verified by the authorized agent of the United States, according to the rules and practice of said courts. Said petition shall contain the names and places of residence of all persons owning or claiming to own, or have any interest in said premises, and particularly who of them are infants, persons of unsound mind or idiots, as far as the same, by reasonable diligence, can be obtained. A copy of said petition, with notice of time and place when the same will be presented, must be served on all persons named in said petition as interested, in the manner prescribed for the service of similar petitions by railroad companies, by the fourteenth section of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April second, eighteen hundred and fifty, and also the several acts amending the same.

Appointment of appraisers. § 5. On presenting such petition, and no sufficient cause be shown against the same, the court shall appoint three disinterested persons to appraise the said premises under oath, who shall report to said court of the proceedings and amount of their appraisal, containing a description of the premises appraised; which report the said court may confirm on such notice as they may direct, if in their opinion such confirmation is proper.

Contents of the order of confirmation, and settlement of costs, etc. § 6. The order of confirmation shall contain a recital of the proceedings of said petition, and descrip-

tion of the premises appraised. The amount of costs and expenses and counsel fees of said proceedings, to be ascertained and settled by said court, and a direction to whom the money, including the amount of said appraisal, and such costs, expenses and counsel fees is to be paid, or in what bank, or in what manner it shall be deposited by the United States, and on recording a certified copy of said order, at full length, in the office of the clerk of the county in which said premises are situated, which the said clerk is hereby authorized to record; and on payment or deposit by the United States of the sums to be paid as compensation for land, and for costs and expenses of said proceedings to be determined by said court, as directed by said order, the title of said premises mentioned in said order, shall invest to the United States so long as the same shall be used for the purposes mentioned in this act.

Compensation of commissioners. § 7. The commissioners appointed in pursuance of this act shall be entitled each to five dollars a day for every day actually engaged.

L. 1868, Chap. 257 — An act ceding to the United States jurisdiction over David's Island in the harbor of New Rochelle, and exempting the same from taxation and assessments.

Cession. SECTION 1. Jurisdiction is hereby ceded to the United States over certain land situate in the harbor of New Rochelle, and known as David's island, the same to be purchased and used by the United States for military purposes: provided, however, and this act is upon the express condition that all civil and criminal processes issued under the authority of this state, or of any officer thereof, may be executed on said David's island, and in the buildings that are or may be erected thereon, in the same manner as if jurisdiction had not been ceded as aforesaid.

Exemption from tax. § 2. The said David's island, with the appurtenances, buildings and other property that may be thereon, shall, as soon as it is acquired by the United States, and forever thereafter, as long as it remains the property of the United States, be exempt from all state, county and municipal taxation and assessments, and provided also, that said island shall not be used for general hospital purposes.

L. 1869, Chap. 649 — An act to authorize the corporation of the city of New York to exchange with the United States certain lands in the City Hall park in said city, and ceding jurisdiction thereof.

Exchange of lands in New York city. SECTION 1. The mayor, aldermen and commonalty of the city of New York are authorized to exchange with the United States, either wholly or in part, the lands heretofore purchased by the United States, and containing sixty-five thousand two hundred and fifty-nine square feet or thereabouts, situated in the City Hall park in said city, for other lands in said park; and in case of such exchange, all the provisions of the act passed April seventeenth, eighteen hundred and sixty, entitled "An act to authorize the corporation of the city of New York to sell certain lands to the United States, and ceding the jurisdiction thereof," shall apply to the lands hereby acquired by the United States, as well as to those which having been already acquired, may be retained by the United States; and the sale and conveyance heretofore made by the mayor, aldermen and commonalty of the city of New York to the United States, of sixty-five thousand two hundred and fifty-nine square feet, or thereabouts, in the City Hall park in said city, is hereby ratified and confirmed, anything contained in any former act, limiting the quantity of land to be sold to the United States as a site for a post-office, to the contrary notwithstanding.

L. 1870, Chap. 70—An act granting consent of the state of New York to the United States government to permit railroad companies to cross and occupy portions of the fortification grounds in the city of Oswego.

Consent of state to railroad crossing in Oswego. SECTION 1. Any right, title, or privilege heretofore granted, or which may hereafter be granted by the United States authorities, to any railroad company to cross or occupy any portion of the fortification grounds in the city of Oswego, for road tracks or any railroad purpose connected therewith, shall not impair or invalidate any of the rights, title, or privileges given to the United States by an act entitled "An act to cede the jurisdiction of certain lands near the mouth of the Oswego river, New York, to the United States," passed April twenty-fifth, eighteen hundred and thirty-nine.

L. 1871, Chap. 326—An act giving the consent of the state of New York to the purchase by, and ceding jurisdiction to, the United States over certain lands within this state, to be occupied as sites for light-houses and keepers' dwellings.

Jurisdiction of lands ceded to United States; limitation of quantity; land, how selected; boundaries and map, how filed; state to retain concurrent jurisdiction of lands, for execution of process, etc. SECTION 1. Jurisdiction is hereby ceded to the United States over so much land as may be necessary for the construction and maintenance of light-houses and keepers' dwellings, and their appurtenances, within this state, as the United States may now own or hereafter become owners of by purchase or otherwise, not to exceed eleven acres for each site, the same to be selected by an authorized officer of the United States, approved by the governor; and the boundaries of the land selected, with such approval endorsed thereon, and a map thereof filed in the office of the secretary of state and by him recorded; provided always, and the assent aforesaid is granted upon this condition, that this state shall retain a concurrent jurisdiction with the United States in and over the lands aforesaid, so far that all civil and such criminal process as may issue under authority of this state, against any person or persons charged with crimes committed within the bounds of this state, may be executed therein in the same manner as though this assent had not been granted.

Lands to be selected for certain light-houses and keepers' dwellings. § 2. The foregoing shall be applicable only to the lands selected, approved and owned as aforesaid, and a survey thereof filed and recorded as above provided, for the construction of the following light-houses and keepers' dwellings, namely: On Fisher's Island, eastern end of Long Island sound, New York, ten and three-tenths acres, more or less. On Barber's Point, Lake Champlain, New York, nine acres, more or less. On Bluff Point, Valcour Island, Lake Champlain, New York, two acres, more or less. On the west bank of Oak Orchard creek, near its mouth, in Orleans county, purchased from Abram V. Clark of the same county, one-half acre, more or less; and at Fair Haven, Cayuga county, New York, five acres or less. [*Thus amended by L. 1871, ch. 580.*]

Title to lands, how acquired, in case of inability to purchase same. § 3. In case the United States shall desire to purchase any portion of the lands selected in pursuance of the provisions of the first section of this act, and shall be unable to agree for the purchase of the same, it shall have the right to acquire title in the manner prescribed in the act entitled "An act ceding jurisdiction to the United States over land to be occupied as sites for light-houses and keepers' dwellings within this state," passed April twenty-four, eighteen hundred and sixty-seven.

L. 1872, Chap. 111—An act granting jurisdiction to the United States over a certain piece of land, within this state, to be occupied as a site for offices and storehouses, in the construction, repair and maintenance of a pier, for the formation of a harbor at Oswego, New York.

Jurisdiction ceded to the United States; description of land. SECTION 1. Jurisdiction is hereby ceded to the United States over the following piece of land, situated in

the first ward of the city of Oswego, to be occupied for storage of materials, and as sites for offices and storehouses, for the purpose of erecting, repairing, and maintaining a pier, for the formation of a harbor at Oswego; such land is described and bounded as follows: A piece of land situated in the north end of blocks four and five, of military lot number five, in the first ward of the city of Oswego, and described as follows: Beginning at a point on the margin of Lake Ontario, one hundred and sixty-four and thirty-five one-hundredths feet south, eighty-eight degrees and fourteen minutes east of the point of intersection of the west line of Fourth avenue with the east side of the new pier, and running thence south three degrees and thirty minutes west, parallel to the line of Fourth avenue, one hundred and fifty-five and two one-hundredths feet to a nail in a stake, marked "U. S.;" thence north eighty-six degrees and thirty minutes west, at right angles with the last mentioned line, and with the line of Fourth avenue, and passing through a nail in a stake on the west line of Fourth avenue, one hundred and fifty feet, from its intersection with the east line of the pier, four hundred and six and twenty-five one-hundredths feet, to a nail in a stake, marked "U. S.;" thence north three degrees and thirty minutes east, parallel to the line of Fourth avenue, and at right angles with the last mentioned line seventy-five and ninety-five one-hundredths feet, to a cross on a boulder on the margin of the lake; thence along the margin of the lake, at low water mark, to the place of beginning, together with all the land under water lying in front of the said above bounded and described premises; the plat so bounded containing, exclusive of the land under water, one and two hundred and one one-thousandths acres of land.

This state to have concurrent jurisdiction for service of process. § 2. The jurisdiction aforesaid is granted upon the express condition that this state shall retain a concurrent jurisdiction with the United States, in and over the land aforesaid, so far that all civil and such criminal process as may be issued under authority of this state against any person or persons charged with crimes committed within the bounds of this state, may be executed therein in the same manner as though this assent had not been granted.

Exempt from taxation. § 3. So long as the said land shall remain under the jurisdiction of the United States, and no longer, the same shall be, and continue exonerated and discharged from all taxes, assessments, and other charges which may be levied or imposed under the authority of this state.

L. 1872, Chap. 369 — An act giving the consent of the state of New York to the purchase by and ceding jurisdiction to the United States over certain land on Cumberland Head, Clinton County, within this state, to be occupied as site of light-house keeper's dwelling.

Consent given to United States to purchase land on Cumberland Head. SECTION 1. The consent of the state of New York is hereby given to the purchase by the United States, at any time, of a piece or parcel of land on Cumberland Head, in the county of Clinton, within this state, and adjoining the present light-house site of that name, not to exceed ten acres, to be used for the purposes of a light-house site and keeper's dwelling; and the owner or owners of said land are authorized to sell and convey the same to the United States for the purposes aforesaid.

Jurisdiction ceded to United States. § 2. The jurisdiction of the state of New York in and over the said land is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

State to retain concurrent jurisdiction for service of process. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and to said land, so far as that all civil, criminal and other process which may issue under the laws or authority of the state of New York may be executed thereon in the same manner as if such consent had not been given, or jurisdiction ceded,

except so far as such process may affect the real or personal property of the United States.

Jurisdiction, when to vest. § 4. The jurisdiction hereby ceded shall not vest in any respect to said land, until the United States shall have acquired the title by purchase or otherwise.

Survey and map to be made. § 5. A survey and map of the land hereinbefore mentioned, with a description with metes and bounds, shall be presented to the governor for approval, and when by him approved, and his approval indorsed thereon, they shall be forwarded to the secretary of state, to be by him recorded.

How title to land may be acquired in case of non-agreement with owners. § 6. In case the United States shall desire to purchase the land mentioned in the first section of this act, and shall be unable to agree with the owner or owners of the same for the purchase, it shall have the right to acquire title in the manner prescribed in the act entitled "An act ceding jurisdiction to the United States over land to be occupied as sites for light-houses and keepers' dwellings within this state," passed April twenty-four, eighteen hundred and sixty-seven.

L. 1872, Chap. 533 — An act granting the consent of the state of New York to the purchase by the United States, of certain lands for the purpose of the erection of a public building at Utica, and ceding jurisdiction over the same.

U. S. may purchase land in Utica for site for post-office and court-house. SECTION 1. The consent of the state of New York is hereby given to the purchase, by the United States, of one or more pieces of land situated in the city of Utica, not exceeding one acre in quantity, on which to erect a building for use as a post-office and court-house, and the said United States shall have, hold, use, occupy and own the said land or lands when purchased, and exercise jurisdiction and control over the same and every part thereof, subject to the restriction hereinafter mentioned.

Jurisdiction ceded to U. S. § 2. The jurisdiction of the state of New York in and over the said land or lands mentioned in the foregoing section, when purchased by the United States shall be and the same hereby is ceded to the United States, but the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said land or lands.

State to retain jurisdiction for service of process. § 3. The said consent is given and the said jurisdiction ceded, upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over said land or lands, so far as that all civil process in all cases, and such criminal or other process as may issue under the laws or authority of the state of New York against any person or persons charged with crimes or misdemeanor committed within said state, may be executed therein in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

When jurisdiction to vest in U. S. § 4. The jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said land or lands by purchase or grant, and so long as the said land or lands shall remain the property of the United States, when acquired as aforesaid, and no longer, the same shall be and continue exonerated from all taxes, assessments and other charges which may be levied or imposed under the authority of this state.

Wilful injuries, etc., how punished. § 5. Any malicious, wilful, reckless or voluntary injury to, or mutilations of, the grounds, buildings or appurtenances, shall subject the offender or offenders to a fine of not less than twenty dollars, to which may be added for an aggravated offence, imprisonment, not exceeding six months, in the county jail or work house, to be prosecuted before any court of competent jurisdiction.

L. 1873, Chap. 195—An act granting the consent of the state of New York to the acquisition by the United States of certain lands for the purpose of the erection of government buildings at Albany and Utica, New York, and ceding jurisdiction over the same.

Consent of state given to acquisition of lands by the United States. SECTION 1. The consent of the state of New York is hereby given to the acquisition by the United States, by purchase, in conformity with the laws of this state, of one or more pieces of land in the city of Albany, not exceeding one acre in quantity; and also of one or more pieces of land in the city of Utica, not exceeding one acre in quantity, on which lands, in each of said cities, said United States may erect a government building, and the said United States shall have, hold, occupy and own the said lands when thus acquired, and exercise jurisdiction and control over the same and every part thereof, subject to the restrictions hereinafter mentioned.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York in and over the said land or lands mentioned in the foregoing section, when acquired by the United States, shall be, and the same hereby is, ceded to the United States, but the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said lands.

Conditions. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said land or lands, so far as that all civil process in all cases, and such criminal or other process as may issue under the laws or authority of the state of New York against any person or persons charged with crimes or misdemeanors committed within said state, may be executed therein the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Jurisdiction, when to vest. § 4. The jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said land or lands by purchase or by condemnation in conformity with the laws of this state, and so long as the said land or lands shall remain the property of the United States, when acquired as aforesaid, and no longer, the same shall be and continue exonerated from all taxes, assessments and other charges which may be levied or imposed under the authority of this state.

[Section 5 was repealed by L. 1886, ch. 593.]

Title, how acquired. § 6. If the United States cannot acquire title to the land above mentioned, or any portion thereof, by purchase, they shall cause application to be made to the supreme court for a writ of inquiry of damages, and such proceedings shall thereupon be had and the damages ascertained and paid in the manner prescribed in the fourth article of title two of chapter nine of the third part of the Revised Statutes.

L. 1873, Chap. 320—An act to authorize the mayor, aldermen and commonalty of the city of New York to convey certain lands to the United States.

Mayor, etc., of city of New York may cede lands to U. S. SECTION 1. The mayor, aldermen, and commonalty of the city of New York are hereby permitted, authorized, and empowered to cede, grant, and convey to the United States of America, upon such terms as may be agreed upon with the authorities of the United States,

all their estate, right, title, and interest in and to the triangular piece of land, being that portion of the grounds commonly known as the Battery in the city of New York, lying westwardly of and adjoining the lands now belonging to the United States, and between such lands and the slip or basin in the said Battery known as the New Whitehall boat slip.

Jurisdiction ceded to U. S. over such lands. § 2. The jurisdiction over such lands and premises as shall be conveyed by virtue of the first section of this act from and after the conveyance of such lands and premises, and upon the execution thereof, shall be ceded to, and vest in, the United States of America, but such jurisdiction shall not impede the execution of any process, civil or criminal, except so far as such process may affect the real or personal property of the United States within the ceded territory.

Exemption from taxation. § 3. The lands and premises which may be acquired by the United States under the provisions of this act shall be, and continue forever thereafter, exempted and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state, but the jurisdiction hereby ceded, and the exemption hereby granted, shall continue in respect to said lands and premises, and to each portion thereof, so long as the same shall remain the property of the United States, and no longer.

L. 1873, Chap. 584—An act to provide building sites for life saving stations on the coast of Long Island, state of New York.

Preamble. WHEREAS, The congress of the United States has made appropriations for the repairing of the various life saving stations, and the building of additional ones on the coast of Long Island, New York; and as difficulties have, in some instances, arisen in procuring from the owners of lands proper sites on which to locate their buildings, and as it is deemed important and necessary in this humane cause that the people of this state should, through their representatives, secure to the United States such sites as the honorable the secretary of the treasury may have selected, or may from time to time select, for the erection of buildings for this purpose. Therefore,

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Commissioners to purchase site. SECTION 1. The governor shall appoint three commissioners, with authority to procure for the state by purchase the title to any land selected by the secretary of the treasury, or his agents, for the purpose of erecting any buildings connected with the life saving stations, and not to exceed one-half acre of land at any one point on the Long Island coast, at such prices as said commissioners, or a majority of them, may deem fair and just, and the title to the same to be taken in the name of the state of New York.

Title, how acquired. § 2. In case the said commissioners cannot agree with the owner or owners of such required lands for the purchase thereof, or where by the legal incapacity or absence of such owner or owners no such agreement can be made, the said commissioners shall make or cause to be made a survey of the land, for the purpose of ascertaining and determining the value of the same, and assessing the damages, and shall cause ten days' notice of a meeting, and a copy of such particular description of the land to be given in writing to the parties interested, if known and in this state, or if out of this state, such notice to be published in one of the newspapers published in the county where said lands are situate for a period of at least thirty days prior to the time appointed for such meeting; and the said commissioners shall meet at the time and place so appointed, and proceed to view and examine the said land, and make a just and equitable estimate or appraisalment of the same, and assessment of damages; which report shall be made in writing under the hands and seals of the said commissioners, or any two of them, and filed within ten days thereafter, together

with the aforesaid survey and description of the lands, in the clerk's office of the county where said lands are situate, to remain on record therein ; which report, or copy thereof certified by the clerk of said county, shall at all times be considered as plenary evidence of the right of the state to have, hold, use, occupy, convey, cede, possess and enjoy the said land ; and said commissioners shall, at the said time of filing the said report, pay the amount of the said award to the county court of the said county where the said lands are situate, for the benefit of the owner or owners of the said land, and the state may take the said land upon the payment of the said award into the said court.

Appeal from report of commissioners. § 3. In case the owner or owners of the said land shall be dissatisfied with the report made by the said commissioners, the party so aggrieved may appeal to the county court of the county where the said lands are situate, at the first term after filing of the said report, by proceeding in form of petition to said court, which proceeding shall vest said court with power and right to direct an estimate or appraisement of the value of the land, and assessment of damages by a jury, to be impaneled and sworn as in other cases, and a view of the premises if desired, and the same to be tried at the next term of the said court to be holden in said county, upon like notice and in the manner as other issues in the said court are tried ; and it shall be the duty of the jury to assess the value of the said land and the damages sustained ; and if they shall find a greater sum than the commissioners have awarded, then judgment thereon with costs shall be entered, and such excess with the costs shall be immediately paid into the county court for the benefit of the parties interested. But if the jury shall find the same or less sum than the commissioners awarded, then costs shall be paid by the said applicant or applicants, and the payments so made and paid into the county court shall be deemed to be valid and legal payments, and such application shall not prevent the state from taking the said land.

Official oath. § 4. The said commissioners shall take and file, in the office of the secretary of state an oath well, truly and faithfully to perform the duties of their appointment before entering upon said duties.

Appropriation. § 5. The sum of two thousand dollars, or so much thereof as may be necessary, shall be and the same is hereby appropriated for the purchase of said land, and for the expenses attending the same, to be paid by the treasurer of this state out of any funds in the treasury, not otherwise appropriated on the warrant of the comptroller under requisition from the said commissioners. And said commissioners shall not contract any obligation nor create any liability on the part of the state beyond what will be paid by said sum of two thousand dollars hereby appropriated.

State to convey lands to the United States. § 6. Immediately after the title to the said lands or sites shall have been acquired by purchase or otherwise, the governor of this state is hereby authorized and required to convey the said lands or sites to the United States by good and sufficient conveyances and under the great seal of the state, for building sites, life saving stations, and for no other purpose, and without compensation to be paid by the United States.

L. 1874, Chap. 49 — An act ceding to the United States of America jurisdiction over certain lands in this state for light-house purposes, and exempting the same from taxation.

WHEREAS, The United States propose to establish a light-house at Thirty Mile Point, on the south shore of Lake Ontario, in the town of Somerset, in the county of Niagara, and state of New York, for the purpose of aiding navigation ; therefore,

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Jurisdiction ceded ; proviso. SECTION 1. The jurisdiction of the lands and their appurtenances, that have been or may be purchased for the establishment of a

light-house in aid of navigation on Lake Ontario, in the town of Somerset, in the county of Niagara, is hereby ceded to the United States of America; provided, however, that all civil and criminal process issued under the authority of the state of New York, or any officer thereof, may be executed on said lands, and in the buildings that may be erected thereon, in the same way and manner as if jurisdiction had not been ceded as aforesaid.

Exemption from taxation. § 2. The lands above described, with their appurtenances and all buildings and other property that may be placed thereon, shall forever hereafter be exempted from all state, county and municipal taxation and assessments whatsoever, so long as the same shall remain the property of the said United States.

L. 1874, Chap. 432 — An act ceding jurisdiction over certain upland and submarine sites in the state of New York for light-house purposes of the United States.

Jurisdiction ceded to the United States; description of land ceded. SECTION 1. Jurisdiction is hereby ceded to the United States over so much land, as from time to time has been deeded to and occupied by them, for the construction and maintenance of light-houses and keepers' dwellings within this state, sketches and descriptions of which, by metes and bounds, have been filed in the office of the secretary of state on the twentieth of April, eighteen hundred and seventy-four, viz.:

No. 1. Split Rock, Lake Champlain, Essex county, New York, containing five acres, two quarters and six perches, conveyed to the United States by deed dated the fifteenth day of July, in the year one thousand eight hundred and thirty-seven.

No. 2. Stuyvesant, county of Columbia, New York, containing five acres, conveyed to the United States by deed dated August thirteenth, in the year one thousand eight hundred and twenty-eight.

No. 3. Coxsackie, county of Greene, New York, containing five acres, conveyed to the United States by deed dated the third day of August, in the year one thousand eight hundred and twenty-eight.

No. 4. Four-Mile Point, town of Coxsackie, county of Greene, New York, containing two acres, two roods and twenty-five rods, conveyed to the United States by deed dated the twelfth day of February, in the year one thousand eight* and thirty-one.

No. 5. Cedar-Island light, Gardiner's bay, town of Easthampton, county of Suffolk, New York, conveyed to the United States by deed dated the twentieth of August, in the year one thousand eight hundred and thirty-eight.

Also, for the lands lying under water, and known as submarine sites, sketches and maps of which, by metes and bounds, have been furnished by the United States† were filed in the office of secretary of state, on the twentieth day of April, in the year one thousand eight hundred and seventy-four, viz.:

No. 6. Hart's Island, situated in Long Island sound, Westchester county, New York, at the south end of Hart Island, under water and beyond low-water mark, containing three acres and seventy-five hundredths of an acre.

No. 7. Execution Rocks, Long Island sound, one hundred feet in diameter, containing less than an acre, situated seven-eighths of one mile north of Sands Point light, and five miles to the north-east of Fort Schuyler.

No. 8. Robin's Reef, New York harbor, containing an area of less than one acre.

No. 9. Long-beach bar, entrance to Greenport harbor, Long Island, Suffolk county, New York, containing an area of less than one acre.

‡ Stratford shoal, Long Island sound, New York, containing an area of less than one acre.

* So in the original.

† So in the original; "and" probably omitted.

‡ "No. 10" omitted in the original.

No. 11. Race Rock, off Fisher's Island point, at the western entrance to Fisher's Island sound, Suffolk county, New York, containing an area of less than one acre.

No. 12. Hudson city, middle ground, Hudson river, opposite the city of Hudson, county of Columbia, New York, containing an area of less than one acre.

No. 13. Saugerties, on the mud flat on the north side of entrance to Saugerties creek, county of Ulster, New York, containing an area of less than one acre.

No. 14. Roah Hook, on the west side of Hudson river, behind the angle of the dyke, south of Roah Hook, New York, containing an area of less than one acre.

* Parada Hook, on a point of rocks, lower end of dyke, on west side of the Hudson river, New York, containing an area of less than one acre.

No. 16. Nine-mile tree, Castleton, behind the centre of dyke, on the east side of the Hudson river, New York, containing an area of less than one acre.

No. 17. Cross-over dyke, on north end of stone dyke below Albany, on the west side of the Hudson river, New York, containing an area of less than one acre.

No. 18. Cnylers' dyke, on the east side of the Hudson river, on the lower or south end of dyke, near Albany, New York, containing an area of less than one acre.

No. 19. Van Wie's point, on the south end of the stone dyke, below Albany, New York, on the west side of the Hudson river, containing an area of less than one acre.

No. 20. Potter's, or Sea-flour reef, Fisher's Island sound, Suffolk county, New York, about one and a half miles north of Fisher's Island, containing an area of less than one acre.

No. 21. Sand spit entrance to Sag Harbor, Suffolk county, Long Island sound, New York, containing an area of less than one acre.

No. 22. Branford reef, abreast of Braunford harbor, Long Island sound, New York, containing an area of less than one acre.

No. 23. Romer Shoal, off Sandy Hook, entrance to New York harbor, containing an area of less than one acre.

No. 24. Oyster-pond point, plum gut entrance to Gardiner's bay, Long Island sound, Suffolk county, New York, containing an area of less than one acre.

No. 25. The Stepping Stones, about one mile south of Hart Island, Long Island sound, New York, containing an area of less than one acre.

No. 26. Mill reef, opposite New Brighton, in the Kill von Kull, Richmond county, New York, containing an area of less than one acre.

How far the state of New York retains concurrent jurisdiction. § 2. The said jurisdiction is ceded upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States, in and over the property aforesaid, so far as that all civil and criminal process which may issue under the laws or authority of the state of New York may be executed thereon in the same way and manner as if such jurisdiction had not been ceded, except so far as such process may affect the real or personal property of the United States.

Exemption from taxation. § 3. The said property shall be and continue forever thereafter exonerated and discharged from all taxes, assessments, and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded, and the exemption from taxation hereby granted shall continue in respect to said property so long as the same shall remain the property of the United States, and be used for public purposes and no longer.

L. 1875, Chap. 359—An act in relation to the purchase by the United States of certain lands at West Point, and the ceding jurisdiction of this State over lands to the United States.

Consent given to purchase by U. S.; jurisdiction ceded; right to serve process reserved.
Section 1. Consent is hereby given under paragraph sixteen of section eight,

* "No. 15," omitted in the original.

article one of the Constitution of the United States, to the respective purchases heretofore made by the United States, of the several tracts of land at West Point, in the county of Orange, now held and owned by the United States for the erection and maintenance thereon of forts, arsenals, docks and piers, military academy, hospitals and other needful buildings, and for the maintenance of the National cemetery and an observatory, and the legislature hereby also cedes the jurisdiction over said lands to the United States, reserving the right to serve civil and criminal process as now existing, except so far as such process may affect the real or personal property of the United States, and occupancy of the highways now existing or which may exist, upon said lands under the laws of this state.

L. 1875, Chap. 502 — An act ceding jurisdiction over certain land under water in Cold Spring harbor, Queens county, Long Island, for light-house purposes of the United States.

Cold Spring harbor, Queens county. SECTION 1. Jurisdiction is hereby ceded to the United States over a submarine site for a light-house at the middle ground, in Cold Spring harbor, Long Island, comprised within a circle two hundred feet in diameter, or less than one acre of surface, as shown on a sketch and description filed in the office of the secretary of state.

Conditions of cession. § 2. The said jurisdiction is ceded upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States, in and over the site aforesaid, so far as that all criminal and civil process which may issue under the laws or authority of the state of New York, may be executed thereon, in the same way and manner as if such jurisdiction had not been ceded, except so far as such process may affect the real or personal property of the United States.

Exempt from taxation. § 3. The said site shall be and continue forever thereafter exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded, and the exemption from taxation hereby granted shall continue in respect to said property so long only as the same shall remain the property of the United States, and be used for public purposes, and no longer.

L. 1876, Chap. 147 — An act granting to the United States the right to acquire the right of way necessary for the improvement of the Harlem river and Spuyten Duyvil creek,* and for the construction of another channel,* from the North river to the East river, through the Harlem kills, and ceding jurisdiction over the same.

Consent of state given for improvement of Harlem river, &c. SECTION 1. The consent of the state of New York is hereby given to the improvement, by the United States, of the Harlem river, and Spuyten Duyvil creek, from the North river to the East river through the Harlem kills, and the United States may take and hold so much land and land under water, with any improvements thereon, as may be necessary for the location, construction and convenient use of the said improvement.

96 N. Y., 227; 81 Hun, 584.

Manner of acquiring title to land necessary for improvement; petition to state names of persons owning or holding lands, etc.; copy petition and notice to be served on persons interested. § 2. In the absence of any agreement between the United States or its authorized agents and the owners of such lands in regard to the compensation therefor, the engineer in charge of the improvements for the United States, and any other authorized agent of the United States may verify and present a petition, in the name of the United States, praying for the appoint-

* Words between asterisks inserted by L. 1879, chap. 245.

ment of commissioners of appraisal to the supreme court at any general or special term thereof held in the first judicial district, which petition shall describe the real estate and material which the United States seeks to acquire, and shall aver that such land is necessary for the construction and use of said improvement, and that the United States has not been able to acquire title thereto and the reason of such inability. The petition must also state the names and places of residence, so far as the same can, by reasonable diligence, be ascertained, of the persons who own or hold, or claim to own or hold, estates or interests in the said real estate, and if any such persons are infants, their ages, as near as may be, shall be stated; and if any such persons are idiots or persons of unsound mind, or are unknown, the fact shall be stated together with such allegations of liens or incumbrances, as the United States may see fit to make. A copy of such petition with notice of the time and place the same will be presented to the supreme court, shall be served on all persons whose interests are to be affected by the proceedings, at least ten days prior to the presentation of the same to the said court.

96 N. Y., 227.

Hearing on the petition to court; appointment of commissioners of estimate and assessment; first meeting. § 3. On presenting such petition to the supreme court as aforesaid, with proof of serving a copy thereof and notice as aforesaid, all persons whose estates or interests are to be affected by the proceedings may show cause against granting the prayer of the petition, and may disprove any of the facts alleged in it. The court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, it shall issue an order for the appointment of three disinterested and competent persons, who reside in the city of New York, commissioners of estimate and assessment, to ascertain and appraise the compensation to be made to the owners or persons interested in the real estate proposed to be taken for said improvement, and the amount to be assessed upon the real estate in front of and benefited by such improvements, which commissioners shall establish the area of real estate upon which the amount necessary to pay the awards and expenses of such proceedings shall be assessed by them, and which order shall fix the time and place of the first meeting of such commissioners. [*Thus amended by L. 1879, ch. 345.*]

Commissioners to take oath of office; may issue subpoenas, &c.; meeting of; to hear proofs and allegations; determination; report. § 4. The commissioners shall take and subscribe the oath prescribed by the twelfth article of the constitution. Any one of them may issue subpoenas, administer oaths to witnesses, and any three of them may adjourn the proceedings before them from time to time, in their discretion. Whenever they meet, except by the appointment of the court, or pursuant to adjournment, they shall cause reasonable notice of such meetings to be given to the parties who are to be affected by their proceedings, or their attorney or agent. They shall view the premises described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony, if any is taken by them, to writing; and after the testimony is closed in each case, and without any unnecessary delay, and before proceeding to the examination of any other claim, a majority of them, all being present and acting, shall ascertain and determine the compensation which ought justly to be made to the party or parties owning or interested in the real estate appraised by them. They, or a majority of them, shall also determine and certify what sum ought to be paid to a general or special guardian or committee of an infant, idiot, or person of unsound mind, or to an attorney appointed by the court to attend to the interest of any unknown owner or party in interest not personally served with notice of the proceedings, and who has not appeared for costs, expenses and counsel fees. They shall make a report to the supreme court, signed by them, or a majority of them, of the proceedings before them, with the minutes of the testimony taken by them, if any.

Confirmation of report; direction as to award; payment of assessments; collection and payment to commissioners; disposition of moneys collected; report. § 5. On such report being made by said commissioners, the United States shall give notice to the parties or their attorneys, to be affected by the proceedings, according to the rules

and practice of said court at a general or special term thereof, for the confirmation of such report, and shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal, and a description of the real estate appraised for which compensation is to be made, and shall also direct to whom the money is to be paid, or in what bank and in what manner it shall be deposited. At any time after the confirmation of said report, any person upon whom any assessment is charged therein may pay the amount thereof to the commissioners so to be appointed under this act. And as to all such assessments as not paid within thirty days after the confirmation of said report, said commissioners may cause proceedings to be taken for the enforcement and collection of such assessments, in the same manner and with like effect as are authorized by the statutes of this State for the enforcement and collection of assessments, in proceedings to open and construct streets in the city of New York—such assessments, when collected, to be paid to said commissioners. From the moneys so collected, said commissioners shall pay the necessary expenses of the several proceedings under this act, to be certified by one of the justices of the supreme court for the first judicial district, and to pay or deposit, according to the provisions of the order prescribed by the sixth section of this act, the several awards to or for the several parties entitled thereto, and thereupon to make report of all their proceedings subsequent to the confirmation of their report prescribed by the fifth section of this act, to a special or general term of the supreme court of the first judicial district, upon which such action shall be taken by said court as to it shall seem meet. [*Thus amended by L. 1879, ch. 345.*]

Certified copy of order to be recorded; appeals; new appraisal; adverse or conflicting claims to moneys awarded, how disposed of; defects in proceedings to be amended. § 6. A certified copy of the order, to be made as aforesaid, shall be recorded at length in the county clerk's office of the city and county of New York, and thereupon the United States shall be entitled to enter upon, take possession of and use the said land for the purpose of said improvement, and all persons who have been made parties to the proceedings shall be divested and barred of all right, estate and interest in said land. All real estate acquired by the United States under and pursuant to the provisions of this act, for the said improvements, shall be deemed to be acquired for the public use. Within twenty days after the confirmation of the report of the commissioners, as provided for in the fifth section of this act, either party may appeal by notice in writing to the other, to the Supreme Court, from the appraisal and report of the commissioners. Such appeal shall be heard by the Supreme Court at any general or special term thereof, on such notice thereof being given, according to the rules and practice of said court. On the hearing of such appeal the court may direct a new appraisal before the same or new commissioners, in its discretion; the second report shall be final and conclusive on all the parties interested. If the amount of the compensation to be made is increased by the second report, the difference shall be a lien on the land appraised, and if the amount is diminished, the difference shall be refunded by the party to whom the same may have been paid; and judgment therefor may be rendered by the court on the filing of the second report, against the party liable to pay the same. Such appeal shall not affect the possession by the United States of the land appraised, and when the same is made by others than the United States, it shall not be heard, except on a stipulation of the party appealing not to disturb such possession. If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into said court and may determine who is entitled to the same, and direct to whom the same shall be paid; and may, in its discretion, order a reference to ascertain the facts on which such determination and order are to be made. The court shall appoint some competent attorney to appear for, and protect the rights of any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent. The court shall also have power, at any time, to amend any defect or informality in any of the special proceedings authorized by

this act, as may be necessary, or to cause new parties to be added, and to direct such further notices to be given to any party in interest, as it deems proper, and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve or be incapable of serving.

Defective titles. § 7. If, at any time, after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the United States may proceed anew to acquire or perfect such title in the same manner as if no appraisal had been made; and at any stage of such new proceedings, the court may authorize the United States, if in possession, to continue in possession and if not in possession, to take possession and use such real estate during the pendency and until the final conclusion of such new proceedings; and may stay all actions or proceedings against any agent of the United States on account thereof on his giving security as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case the party interested in such real estate may conduct the proceedings to a conclusion if the United States delays or omits to prosecute the same.

Proceedings where lands are vested in trustees, etc. § 8. In case any title or interest in real estate required by the United States for said improvement shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot or person of unsound mind, the Supreme Court shall have power, by a summary proceeding on petition, to authorize and empower such trustee, or the general guardian or committee of such infant, idiot or person of unsound mind, to sell and convey the same to the United States for said improvement on such terms as may be just; and in case any such infant, idiot or person of unsound mind, has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper. But before any conveyance or release, authorized by this section, shall be executed, the terms on which the same is to be executed, shall be reported to the court, on oath; and if the court is satisfied that such terms are just to the party interested in such real estate, the court shall confirm the report, and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land having legal power to sell and convey the same.

Cession of jurisdiction of State. § 9. The jurisdiction of the State of New York, in and over the land and land under water required for said improvement, shall be, and the same hereby is, ceded to the United States, subject to the reservations and restrictions hereinafter mentioned.

Reservation to State of concurrent jurisdiction; proviso; draws. § 10. The said consent is given, and the said jurisdiction ceded, upon the express reservation to the State of New York of concurrent jurisdiction with the United States, in and over the territory covered by said improvement, so far as that all civil and criminal process which may issue under the laws or authority of the State of New York may be executed thereon in the same way and manner as if such consent had not been given, or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States; provided, however, that the direction of the bridges, hereafter to be constructed over said river or creek, shall be at right angles to the courses of the improved channel, that the height of the bridges in the clear, at the draws, shall be not less than twenty-four feet above the high water of spring tides, and that the number and size of the bridge piers within the improved channel shall first be approved by the engineer of the United States in charge; and provided, further, that no tunnel shall be constructed under said river or creek which will not permit of the excavation of a channel above it of at least twenty feet in depth at mean low water. There shall be constructed in every bridge, except in suspension bridges, hereafter built over said river or creek, two draws contiguous to each other, and the length on the bridge occu-

pied by the draw spans and the center pier separating them shall be at least two hundred and forty feet. [*Thus amended by L. 1879, ch. 345.*]

When cession to take effect. § 11. The jurisdiction hereby ceded shall not vest in any respect as to any portion of said territory until the United States shall have acquired the title thereto by grant, or by virtue of the provisions of this act.

Lands not liable to taxation. § 12. The said property, when acquired by the United States, shall be, and continue forever thereafter, exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this State.

L. 1876, Chap. 410—An act relinquishing title and jurisdiction to the United States over certain land covered with water at West Point.

Cession of land under water at West Point. SECTION 1. All the right and title of the State of New York to the following described parcel of land covered with water adjacent and contiguous to the lands of the United States on the Hudson river at West Point and jurisdiction over the same, are hereby released and ceded to the United States under article one, section eight, paragraph sixteen of the Constitution, for the purpose of erecting and maintaining docks, wharves, boat-houses, batteries, and other needful military structures and appurtenances.

Said land covered with water is bounded and described as follows:

Beginning at a point at high water mark on the west shore of the Hudson river on south line of lauds belonging to the United States and northeast corner of lands belonging to Edward V. Kinsley, and running thence into the river from high water mark south seventy degrees, east one hundred and twenty-five feet; thence north thirty-one degrees east, thirty-one hundred and sixty-five feet, to a point fifty feet east of the most easterly point at high water mark of a point of land at base of "Battery Knox;" thence north twenty degrees east, thirteen hundred and fifty feet, to a point sixty feet east of high water mark at "Gee's Point;" thence north fifty-two degrees twenty minutes west, thirteen hundred and seventy-five feet; thence north seventy-five degrees thirty minutes west, four hundred and forty-five feet, to a point fifty feet north of the northwest corner of the "North dock;" thence north forty-seven degrees twenty-five minutes west, twenty-one hundred and seventy-five feet, to a point three hundred feet east of high water mark; thence north twenty-three degrees forty-five minutes west, fourteen hundred and twenty feet, to a point one hundred feet east of high water mark; thence north seven degrees fifty-five minutes west, seventeen hundred and eighteen feet, to a point fifty feet east of high water mark; thence north nine degrees five minutes west, eighteen hundred and three feet, to a point one hundred feet east of high water mark, and in range with the north line of the United States lands; thence north eighty-nine degrees twenty minutes west, one hundred feet, to a bolt set in a rock for the northeast corner of said lands of the United States: provided, that jurisdiction hereby ceded shall continue no longer than the United States shall own said land at West Point and the adjacent land covered with water hereby released; and provided further that all civil and such criminal process as may lawfully issue under authority of this state may be served or executed over said released lands.

Patent. § 2. The commissioners of the land office are hereby authorized and directed to issue a patent of said released lands to the United States.

L. 1879, Chap. 33—An act to authorize the corporation of the city of New York to sell certain lands to the United States, and ceding jurisdiction thereof.

Commissioners of sinking fund authorized to sell certain land to United States; certificate of sale; mayor, etc., to execute deed. SECTION 1. The commissioners of the sinking fund of the city of New York are hereby authorized to sell to the United States,

upon such terms, and for such consideration, as may be agreed upon by and between said commissioners of the sinking fund and the authorities of the United States, so much of the land situated in and belonging to the corporation of said city, and immediately adjoining the northerly side or boundary of the land heretofore conveyed by the mayor, aldermen, and commonalty of the city of New York to the United States, for a site for a post-office, as is now covered by two sidewalks, each one hundred and three feet and six inches in length, by nineteen feet two inches in width, with a paved passage-way between eleven feet and eleven inches in width, making a total area of two hundred and eighteen feet and eleven inches in length, by nineteen feet and two inches in width. Whenever said land shall have been sold pursuant to the authority hereby given, it shall be the duty of the commissioners of the sinking fund, or a majority of them, to give a certificate under their hands that the same has been sold pursuant to the provisions of this act; and upon the production of such certificate, and upon proof of due compliance on the part of the United States with the terms of sale, it shall be the duty of the mayor of said city, and the clerk of the common council, in the name and on behalf of the said mayor, aldermen and commonalty, to execute a proper conveyance of such lands under their hands and the seal of said city.

Consent of state and cession of jurisdiction. § 2. The consent of the state of New York is hereby given to the purchase by the United States of any land that may be sold under the provisions of this act, and the jurisdiction of the state of New York in and over any lands so sold is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

Concurrent jurisdiction of state. § 3. Said consent is given and the said jurisdiction is ceded, upon the express conditions, that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said land, so far as that all civil or criminal process, which may issue under the laws or authority of said state, may be executed therein in the same manner as if such consent had not been given, or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

When jurisdiction to vest. § 4. The jurisdiction hereby ceded shall not vest in any respect to said lands until the United States shall have acquired the title thereto.

Exempt from taxation. § 5. The said land acquired under the provisions of this act shall be, and continue forever thereafter exempted and discharged from all taxes, assessments, and other charges which may be levied or imposed under the authority of this state, but the jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue in respect to said land, so long as the same shall remain the property of the United States, and be used for public purposes, and no longer.

L. 1879, Chap. 206—An act to authorize the commanding officer of the United States military post at West Point, New York, to acquire the title to *lands, Round-Pond,* rights of way, and easements, for the purpose of furnishing, increasing and improving the water supply of said military post, in accordance with the act of congress, approved January twentieth, eighteen hundred and seventy-nine.

Entry upon lands to make surveys authorized; agreement with land owners. SECTION 1. The commanding officer of the United States military post at West Point, New York, is hereby authorized by himself, or such representative as he may appoint, to enter upon any lands for the purpose of making surveys, with a view to the improvement of the water supply of said United States military post at West Point, New York, and to agree with the owner or owners of any lands, and of Round-Pond, as to the amount of compensation to be paid for the same, or any of

*Words between asterisks substituted for "lands or round, pond," by L. 1879, ch. 425.

the same, or for the right of way or other easement, on any lands which, or any of which, may be required for the purposes of this act, or which may be injuriously affected by any of the operations authorized thereby or connected therewith. [*Thus amended by L. 1879, ch. 425.*]

Appointment of commissioners of appraisal in certain cases; powers and duties of commissioners. § 2. In case of any disagreement between the said commanding officer of said military post at West Point and the owner or owners of any lands or of Round-Pond, which may be required for, or which may be injuriously affected by, any of the operations connected with the purposes of this act, or in case any such owner shall be an infant, or married woman, or insane, or absent from the state, or the owner of any uncertain or contingent interest, the supreme court at any general or special term thereof, in the second judicial district, shall, on the application of either party, after ten days' personal notice in writing, or when such notice cannot be served within the state after three weeks' notice thereof, published in the two newspapers last designated by the board of supervisors of the county of Orange for the publication of the session laws, nominate and appoint three disinterested persons commissioners to examine such property, who, upon being duly sworn faithfully and impartially to perform their duties, shall estimate and report to said court the several sums which shall be a just compensation to such owners for the appropriation to the purposes of this act, of the lands, Round-Pond, and rights of way or other easements required therefor as aforesaid, or which may be injuriously affected thereby; and the said commissioners before proceeding to make such estimate shall publish a notice once in each week, for two weeks, in the aforesaid newspapers, stating a time when and a place where they will meet to perform said duties, and at such time and place they are authorized and required to take and hear such proofs and allegations as may be offered by any of the said owners, showing in what manner and to what extent they will sustain injury by any of said appropriations or operations authorized by or for the purposes of this act, and also to take and hear such proofs and allegations relating thereto as may be offered by or in behalf of the commanding officer of said military post at West Point, and the said commissioners may adjourn from time to time, as may be necessary, for the purpose of taking and hearing said proofs and allegations. [*Thus amended by L. 1879, ch. 425.*]

Payment of awards. § 3. Whenever said report of said commissioners, directed to be made to the supreme court as aforesaid, shall be confirmed by said court after eight days' notice in writing of a motion to confirm, served on the attorney or attorneys of such persons as may appear by attorney, the said commanding officer of said military post at West Point may deposit, as the said court may direct, or pay to the said owner, or owners or persons, injured by the appropriations or operations authorized by or for the purposes of this act, or to such person as the court may designate, the sum or sums mentioned in said report, in full satisfaction for all damages sustained, and in full compensation for all property required, in manner aforesaid, for all purposes of this act.

L. 1879, Chap. 345—An act to amend chapter one hundred and forty-seven of the laws of eighteen hundred and seventy-six, entitled "An act granting to the United States the right to acquire the right of way necessary for the improvement of the Harlem river and Spuyten Duyvil creek, from the North river to the East river, through the Harlem kills, and ceding jurisdiction over the same."

[The various sections of this act, except §§ 3 and 4, amend portions of the act specified in its title.]

Construction of channel; power to take and hold necessary lands; proceedings to acquire same; jurisdiction ceded. § 3. The consent of the state of New York is hereby given to the construction, by the United States, of the channel to connect the waters of the Harlem river with the Hudson river, in accordance with the

plans for the improvements of the Harlem river, prepared under the direction of the secretary of war, and the United States may take and hold so much land, and land under water, with any improvements thereon, as may be necessary for the location, construction, and convenient use of the said channel, and also may remove and use for the construction and repair of said channel, any gravel, earth, stone, timber, or other material, not only from the land taken for the channel itself, but from other adjacent lands, if the same shall become necessary; and in the absence of an agreement between the United States, or its authorized agents, and the owners of said lands, in regard to the compensation therefor, the proceedings provided in said act may be taken to acquire the same, and the jurisdiction of the state of New York, in and over the said land required for said channel, is hereby ceded to the United States, subject to the reservation and proviso mentioned in the second section of this act. [*See L. 1876, ch. 147, § 10.*]

31 Hun, 586; 96 N. Y., 227.

Cession of lands by city of New York authorized; certificate; conveyance. § 4. The commissioners of the sinking fund of the city of New York, or the mayor, aldermen, and commonalty of the city of New York, are hereby authorized to cede, grant, and convey to the United States, upon such terms, and for such consideration as may be agreed upon by and between said commissioners of the sinking fund, or said mayor, aldermen, and commonalty, and the United States, all the estate, right, title, and interest of the city of New York, in and to any part of said land required for said channel. Whenever any part of said land shall have been ceded by said commissioners of the sinking fund, pursuant to the authority hereby given, it shall be the duty of said commissioners of the sinking fund, or a majority of them, to give a certificate, under their hands, that the same has been ceded, pursuant to the provisions of this act; and upon the production of such certificate, and upon proof of due compliance, on the part of the United States, with the terms of cession, it shall be the duty of the mayor of said city, and the clerk of the common council, in the name and on behalf of the said mayor, aldermen, and commonalty, to execute a proper conveyance of such lands under their hands and the seal of said city.

L. 1880, Chap. 15 — An act giving the consent of the state of New York to the United States for the purchase of land at New Brighton and ceding jurisdiction over the same.

Consent of state to purchase by U. S. SECTION 1. The consent of the state of New York is hereby given to the purchase, by the United States, of a piece of land at New Brighton, in Richmond county, adjoining the present light-house depot, on the west side thereof, and not exceeding two acres, for the purpose of said light-house depot; and the said United States may have, hold, use, occupy and own the said land when purchased, and exercise jurisdiction and control over the same and every part thereof subject to the restrictions hereinafter mentioned.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York in and over said piece of land, when purchased by the United States, shall be and the same is hereby ceded to the United States for the purposes of the said light-house depot, and the jurisdiction hereby ceded shall continue no longer than the United States shall own such land.

State to retain concurrent jurisdiction. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said land, so far that all civil process in all cases, and such criminal or other process as may issue under the laws or authority of the state of New York, against any person or persons charged with crimes or misdemeanors committed within said state, may be executed therein,* in the same way or manner as if such consent had not been given or jurisdiction ceded.

* So in the original.

When jurisdiction to vest. § 4. The jurisdiction hereby ceded shall not vest in respect to said piece of land until the United States shall have acquired the title thereto by purchase or grant, nor until the map and description mentioned in the next section shall have been filed and recorded as therein required, and so long as the said land shall remain the property of the United States when so acquired, and no longer, the same shall be and continue exonerated and discharged from all taxes, assessments, and other charges which may be levied or imposed under the authority of this state.

Map, etc., to be filed. § 5. A map and description by metes and bounds of the land purchased under the provisions of this act shall be filed in the office of the secretary of state and by him recorded.

L. 1880, Chap. 65—An act further to amend chapter one hundred and forty-seven of the laws of eighteen hundred and seventy-six, entitled “An act granting to the United States the right to acquire the right of way necessary for the improvement of the Harlem river and Spuyten Duyvil creek from the North river to the East river, through the Harlem Kills and ceding jurisdiction on the same,” as amended by chapter three hundred and forty-five of the laws of eighteen hundred and seventy-nine.

Expenses to be borne by parties benefited. SECTION 1. All sums of money which have been or shall hereafter be awarded under and according to the provisions of the acts hereby amended, to the owners and parties in interest in the lands and premises taken, or which shall hereafter be taken for the purposes of the improvement of the Harlem river and Spuyten Duyvil creek, as just compensation to be made to them for such lands and premises, and the costs and expenses of estimate, assessment, and other proceedings necessarily taken or to be taken under, and authorized by, said acts, and by said acts as hereby amended, shall be borne and paid by the parties and persons interested in and entitled as owners or otherwise to the lands and premises deemed to be benefited by said improvement, and the same shall be assessed upon such parties and persons, lands and premises in the manner hereinafter provided.

Commissioners to make assessment; official oaths. § 2. The commissioners of estimate and assessment appointed pursuant to the provisions of chapter one hundred and forty-seven of the laws of eighteen hundred and seventy-six, and chapter three hundred and forty-five of the laws of eighteen hundred and seventy-nine, by the several orders of the supreme court made and entered upon the petition of John Newton, the engineer in charge of said improvement, in the name of the United States, at a special term of the first judicial district, held in the city of New York on the twenty-fourth, twenty-seventh and thirty-first days of October, eighteen hundred and seventy-nine, or in the event of the death, resignation or removal of such commissioners, or either of them, such other commissioners as may be appointed by the supreme court in the place and stead of such commissioner or commissioners so dying, resigning or removed, are hereby authorized and directed to lay out and determine upon an area of assessment, embracing such lands and premises on each side of the exterior lines of said improvement, or as nearly adjacent thereto as said commissioners shall deem to be benefited thereby, and to assess upon such lands and premises, and the persons and parties in interest owning the same, within such area of assessment for the value of such benefit, the sum required to pay the compensation awarded to, or to be awarded by them under the acts hereby amended, and as hereby amended, and the order or orders of the supreme court heretofore made or hereafter to be made upon such petition, and the cost and expenses of estimate, assessment and other proceedings necessarily taken or to be taken under and authorized by said acts, and by said acts as hereby amended. Said commissioners, before they enter upon the performance of the duties hereinafter prescribed, shall severally take and subscribe the oath prescribed by the twelfth section of the constitution of this state, which oath shall be filed in the clerk's office of the city of New York. [*Thus amended by L. 1881, ch. 61.*]

Duty of commissioners; abstract to be made; notice. § 3. It shall be the duty of said commissioners, after having viewed the premises, to lay out and determine upon an area of assessment embracing the lands and premises on each side of said improvement, or as nearly adjacent thereto as said commissioners may deem to be benefited thereby, to cause a map of the same to be made showing the limits of said area of assessment, the names of the parties owning or in possession of the lands within the same, so far as the same can be ascertained, and the quantity of land belonging to such owner, and the quantity belonging to such unknown owners whose names cannot be ascertained, and the location of the same on said map as nearly as they can ascertain the same, and to make a just and equitable assessment of the value of the benefit and advantage of such improvement to the respective owners, persons or parties in interest, entitled to or interested in the said respective lands and premises within said area of assessment, in proportion as nearly as may be to the advantage which each shall be deemed to acquire thereby, and in each and every case where the owners or parties in interest, or their respective estates and interests are not known or are not fully known to the said commissioners, it shall be sufficient for them to assess and set forth in general terms the respective sums to be paid by the owners and proprietors generally of said lands and premises and parties interested therein, and to report the same to the supreme court without any unnecessary delay. An abstract of the assessment of said commissioners, containing the names of the owners of the parcels of land, so far as the same can be ascertained, the numbers and description of such parcels as they appear upon said map, together with such map, the amount of assessments made against each owner or party in interest, and also all affidavits, estimates and other documents, which were used by said commissioners in making their said report, shall be deposited in the clerk's office of the city and county of New York, for the inspection of whomsoever it may concern, for at least thirty days before said commissioners make their report to said court. They shall give notice of the time and place of making their said report to the court, and of the filing of said abstract, by advertisement to be published for and during the space of twenty days previous to making said report, in at least four of the public newspapers printed in said city, and by posting copies of said advertisement in hand-bills to be posted up for the same space of time, in three conspicuous places adjacent to said improvement.

Rights of persons whose property is affected; notice to be published. § 4. Any person or party whose rights may be affected by the said assessment, and who shall object to the same or any part thereof, may, within ten days after the first publication of the said notice, state his, her or their objections to the same in writing to the said commissioners, which statements shall not be received by them unless verified by his, her or their affidavits, or the affidavits of other persons; and it shall be the duty of the said commissioners, in all cases, to transmit to said court, together with their said report, all the written statements and affidavits which may have been served upon them within the time aforesaid. And at the expiration of the said ten days, it shall be the duty of the said commissioners to give at least ten days' notice, by publication as aforesaid, of a time and place when and where any person or persons, who may consider themselves aggrieved by such assessment, shall be heard in opposition to the same; and the said commissioners shall have power to adjourn from time to time, within the space of ten judicial days, until such person or persons are fully heard. Said commissioners, or such of them as shall make such assessment, in case any objections be made to them and stated in writing, and verified as aforesaid, shall reconsider their said assessment, or the part or parts thereof so objected to, and in case the same shall appear to them to require correction, but not otherwise, they shall and may correct the same accordingly.

Proceedings on coming in of report. § 5. Upon the coming in of said report, signed by said commissioners, or any two of them, the said court shall, after hearing any

matter which may be alleged against the same, either confirm the said report or refer the same to the same commissioners for revisal and correction, to reconsider the subject-matter thereof, and the commissioners to whom said report shall be so referred shall return the said report corrected and revised, or a new report to be made by them in the premises, to the said court, and the same, on being so returned, shall be confirmed, or again referred by the said court, in manner aforesaid, as right and justice shall require, and so from time to time until a report shall be made in the premises which the said court shall confirm, and such report, when made, shall be final and conclusive upon the owners, persons or parties in interest and entitled to any lands and premises mentioned in said report, and also upon all other persons and parties whatsoever, and the several assessments thereby confirmed shall thereupon become a lien upon the several lands and premises so as aforesaid severally assessed to the extent of the amount so assessed upon each parcel set forth in said report within said area of assessment. Upon the confirmation of said report of assessment the comptroller of the city of New York is hereby authorized to raise upon the assessment bonds of the city of New York, in the manner now provided by law, a sum not exceeding two hundred thousand dollars, and to pay therefrom the several sums awarded to the persons and parties as owners or interested in the lands and premises taken or to be taken for the purpose of said improvement, as the same shall appear by the report of the commissioners of estimate made in pursuance of the provisions of the acts hereby amended, and as amended when confirmed, and the expenses, charges and disbursements of the proceedings taken under said acts and under the same as hereby amended, as taxed and certified by a justice of the supreme court. In case any person or party in interest to whom an award shall be so made and confirmed shall decline to receive the same, or in case an award shall be made to "unknown owners," the comptroller is hereby authorized to deposit the sum so awarded to such person or party in interest, or to such unknown owner or owners, with the New York Life Insurance and Trust Company of the city of New York, to the credit of such person, party in interest or unknown owner; and thereupon the United States shall be entitled to enter upon, take possession of and use the said lands and premises for the purpose of said improvement, and all persons who have been made parties to the proceedings shall be divested and barred of all right, estate and interest in said lands and premises. All real estate acquired by the United States under and pursuant to the provisions of this act, for the said improvement, shall be deemed to be acquired for the public use; the money so deposited to the credit of "unknown owners," with all interest accrued thereon, to be paid only upon the order of the supreme court. [*Thus amended by L. 1883, ch. 214.*]

Payment of assessments; notice to be published; rate of interest; warrant for collection
§ 6. The sums assessed for benefit, as the same shall appear by the report of assessment so as aforesaid confirmed, shall be paid, by the parties against whom the same are assessed, to the comptroller of the city of New York, who is hereby authorized to receive and apply the same in manner hereinafter directed. After the confirmation of said report, the said comptroller shall forthwith cause a notice to be published for twenty days in three of the public newspapers issued in said city of New York, of the confirmation of said report, that the assessments therein made are to be paid at his office within thirty days from the date of the confirmation of said report, without interest, and that if the same are not paid within ninety days from such confirmation, the proceedings provided for by this act will be taken for the enforcement and collection of the same, with interest thereon at the rate of eight per centum after thirty days from such confirmation. Said assessments may be paid to the said comptroller at any time after the confirmation of the said report of assessment, and within thirty days thereafter, without interest. And if not paid within thirty days thereafter interest at the rate of eight per centum per annum shall accrue and be paid upon the same until the same are paid, and as to all such assessments as shall not be paid within ninety days from the time said report of assessment is confirmed, the said comptroller is hereby authorized and directed, immediately upon the expiration of said ninety

lays, to issue his warrant for the collection of unpaid assessments. Such warrant shall be signed by the said comptroller and directed to the sheriff of the city and county of New York. It shall contain the names of all the persons and parties assessed, who have not paid the sums assessed against them by said report of assessment, the amounts due from such persons and parties respectively, the number and description of the parcels of lands and premises assessed for benefit, owned by such persons and parties respectively, and the amounts due from unknown owners, if any, with the number and description of all parcels assessed to such unknown owners as set forth in said report of assessment and the maps filed therewith. Said warrants shall command the sheriff to collect from the persons and parties named in said warrant the sum or sums due from them respectively, with interest at the rate of eight per centum per annum from and after the expiration of thirty days from the date of the confirmation of said report of assessment, pursuant to the provisions and under the authority of this act, and to return the same, with the moneys collected thereon, to said comptroller within the period of sixty days from the date thereof. The said comptroller is hereby authorized to renew said warrant after the expiration of said sixty days, from time to time, until the whole amount due for said assessment shall be collected. [*Thus amended by L. 1883, ch. 214.*]

Sheriff to collect same; when sheriff may advertise and sell in case of "unknown owners;" when comptroller to raise additional money; limitation of amount. § 7. The sheriff of the city and county of New York shall thereupon, by virtue of said warrant and the authority hereby given, collect the several amounts so directed to be collected from the several persons or parties named therein and from the several lands and premises numbered and described therein as belonging to such persons or parties, and he shall have the same power to enforce the collection of the same, or any renewal thereof, as if said warrant, or any renewal thereof, were an execution issued in due form of law upon a judgment of a court of record of this state, against the persons and parties named therein as against the several parcels of land and premises numbered and described in said warrant. If any of the parcels numbered and described in said warrant shall be assessed to "unknown owners," and the amount so assessed shall not be paid to said sheriff within twenty days after said warrant shall have come into his hands, said sheriff is hereby authorized and directed, immediately after the expiration of said twenty days, to advertise the several parcels so assessed to unknown owners in the same manner and for the same period of time as in the case of known owners, except that for the name or names of the persons or parties as set forth in the notice of sale and other proceedings subsequent thereto taken by him, the description of "unknown owners" may be inserted therein; upon the payment of any such assessment the comptroller is hereby authorized and required to discharge the same, and the lien created thereby. Upon the return by the said sheriff of the warrant first issued by said comptroller as hereinbefore directed, if there shall be due and uncollected any of the sums assessed in said warrant directed to be collected, and there shall be due and unpaid any of the awards so confirmed as aforesaid to the owners or parties interested in the lands so taken or of the expenses of said proceedings so certified as aforesaid, the said comptroller is hereby authorized to raise on the assessment bonds of the city of New York, in the manner now provided by law, such a further sum, not exceeding fifty thousand dollars, as will be sufficient to pay the awards and expenses of said proceedings then remaining unpaid, and from the proceeds of said bond shall pay such unpaid awards and expenses. The money received by the comptroller from such assessments shall be applied to the payment of such awards and expenses as may not have been paid by him from the proceeds of the bonds herein authorized to be issued, and the balance thereof, to the extent of the bonds issued under this act, and the interest thereon, shall be retained by said comptroller for the benefit of the city of New York. It is hereby declared that the whole amount of bonds authorized by this act and by section seven of chapter sixty-five of the laws of eighteen hundred and eighty as amended by chapter sixty-one of the laws of eighteen hundred and eighty-one shall not exceed the sum of two hundred and

fifty thousand dollars, including such sum as may have been paid by said comptroller therefrom by virtue of chapter three hundred and seventy-seven of the laws of eighteen hundred and eighty-two. [*Thus amended by L. 1883, ch. 214, superseding L. 1882, ch. 377, § 3.*]

[Section 8 was repealed by L. 1883, ch. 214.]

Inconsistent statutes repealed. § 9. Such of the provisions of chapter one hundred and forty-seven of the laws of eighteen hundred and seventy-six, and chapter three hundred and forty-five of the laws of eighteen hundred and seventy-nine, as are inconsistent with the provisions of this act are hereby repealed, except that this act shall not affect any proceedings heretofore taken under the acts hereby amended, but the court in which such proceedings may be pending may amend the same or any orders heretofore made therein, so as to make the same conform with the provisions of this act. In case there shall be received by said comptroller under this act, from said assessments and interest thereon, a greater sum than will be required to pay the several amounts hereinbefore directed to be paid from the same, the several persons and parties in interest who have paid such assessments shall be entitled to receive from said comptroller the proportion of said surplus which the sums so paid by them bear to the whole amount of said surplus.

L. 1882, Chap. 377 — An act to expedite the improvement of the Harlem river and Spuyten Duyvil creek as authorized by chapter one hundred and forty-seven of the laws of eighteen hundred and seventy-six, and the acts amendatory thereof and supplementary thereto, passed May twentieth, eighteen hundred and seventy-nine, March seventeenth, eighteen hundred and eighty, and March twenty-eighth, eighteen hundred and eighty-one, and to facilitate the proceedings of the commissioners appointed under said act.

Comptroller of New York city to raise money by assessment bonds. SECTION 1. In order to expedite the improvement of the Harlem river and Spuyten Duyvil creek, as authorized by chapter one hundred and forty-seven of the laws of eighteen hundred and seventy-six, and the acts amendatory thereof and supplementary thereto, passed May twentieth, eighteen hundred and seventy-nine, March seventeenth, eighteen hundred and eighty, and March twenty-eighth, eighteen hundred and eighty-one, and to facilitate the proceedings of the commissioners appointed under said acts, the comptroller of the city of New York, in anticipation and on the faith and security of the amounts to be paid in and collected as provided in sections six and seven of chapter sixty-five of the laws of eighteen hundred and eighty, as amended by chapter sixty-one of the laws of eighteen hundred and eighty-one, is hereby authorized and required to raise on the assessment bonds of the city of New York, in the manner now provided by law, a sum not exceeding fifty thousand dollars.

Proceeds to be paid over to commissioners. § 2. So much of the proceeds of said bonds as shall be necessary to liquidate and cancel the expenses necessarily incurred and to be necessarily incurred by the commissioners appointed under the acts aforesaid (in eighteen hundred and seventy-nine) shall be paid over to said commissioners, the amounts to be first certified to, taxed and adjusted by the supreme court on presentation thereto of the proper vouchers which shall be filed, upon the entry of the order by the court.

[Section 3 superseded by L. 1883, ch. 215, § 3.]

Balance, how applied. § 4. So much of the proceeds of the said bonds herein authorized as shall not be required to liquidate the expenses provided for in section two of this act shall be applied at the times, in the manner and for the objects specified in section eight of chapter sixty-five of the laws of eighteen hundred and eighty, as amended by chapter sixty-one of the laws of eighteen hundred and

eighty-one. Except that no further part thereof than is herein provided shall be applied to the liquidation of the costs, charges and disbursements of the proceedings taken by the commissioners under said acts.

L. 1880, Chap. 69—An act ceding jurisdiction to the United States over a submarine site for a light-house to be built at the Great Beds in Raritan bay.

Jurisdiction ceded to United States. SECTION 1. Jurisdiction is hereby ceded to the United States over a site for a light-house, to be built on the Great Beds in Raritan bay, on lands under water belonging to this state. The site is on the edge, or south-eastern extremity of the shoal known as the Great Beds, which makes out from the New Jersey shore at the intersection of the Raritan river and Perth Amboy channels, and is embraced within a circle seven hundred feet in diameter, the center point of which is distant three-fourths of a mile in a course south twenty-two degrees west from the south-west gable of the dwelling-house of B. C. Butler, at Ward's Point, on the southerly shore of Staten Island, and contains eight and eighty-three one-hundredths of an acre in area, as shown on a map and description which have been filed in the office of the secretary of state of this state.

Condition. § 2. The said jurisdiction is ceded upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the site aforesaid, so far as that all criminal and civil process which may issue under the laws or authority of the state of New York may be executed therein in the same way or manner as if such jurisdiction had not been ceded, except so far as such process may affect the real or personal property of the United States.

Exemption from taxes. § 3. The said site shall be and continue forever hereafter exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state, but the jurisdiction hereby ceded and the exemption from taxation hereby granted shall continue in respect to said property so long only as the same shall remain the property of the United States and be used for light-house purposes and no longer.

L. 1880, Chap. 196—An act relinquishing title and jurisdiction to the United States over certain lands covered with water in the harbor of New York at Governor's, Bedloe's, Ellis's and David's Islands, and Forts Lafayette, Hamilton, Wadsworth, and Schuyler.

Title of state released to United States. SECTION 1. All the right and title of the state of New York to the following described parcels of land covered with water, adjacent and contiguous to the lands of the United States, in the harbor of New York, at Governor's, Bedloe's, Ellis's, and David's Islands, and Forts Lafayette, Hamilton, Wadsworth (or Tompkins), and Schuyler, and jurisdiction over the same are hereby released and ceded to the United States under article one, section eight, paragraph seventeen of the constitution, for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries, and other needful structures and appurtenances. Said lands covered with water are bounded and described as follows:

AT GOVERNOR'S ISLAND.

Description of lands at Governor's Island. Beginning at a point fifty feet from the head of the main wooden dock, commonly known as the quartermaster's dock,

and on a line with the north face of said dock, running thence south five degrees thirteen minutes west for one hundred and thirty-seven feet; thence south fourteen degrees forty-four minutes west for five hundred ninety-five feet; thence south twenty-nine degrees twenty-five minutes west for four hundred and ninety feet; thence south fifty-three degrees fifty-eight minutes west for six hundred and twenty-two feet; thence north sixty-eight degrees twenty-seven minutes west for ten hundred and eighty-eight feet; thence north eighteen degrees fifty-five minutes west for fifteen hundred and sixty-five feet; thence north seventeen degrees four minutes east for five hundred and thirty-five feet; thence north seventy-nine degrees fifty-eight minutes east for three hundred and eighteen feet to a point fifty feet from the head of the Castle William's dock and on a line with the west face of said dock; thence north eighty-nine degrees forty-eight minutes east for five hundred and eighty-four feet; thence south seventy-four degrees twenty-three minutes east for seven hundred and eighty-six feet; thence south forty-five degrees forty-four minutes east for seven hundred and fifty-one feet to a point fifty feet from the head of the stone dock, and on a line with the north face of said dock; thence south twenty degrees thirty-three minutes east for two hundred and twenty-two feet to the point of beginning.

AT BEDLOE'S ISLAND.

At Bedloe's Island. Beginning at a point fifty feet from the head of the main dock or wharf and on a line with the south-west face of said dock; running thence south forty-one degrees thirteen minutes west for four hundred and twenty-four feet; thence north seventy-two degrees thirteen minutes west for four hundred and twenty-three feet; thence north twenty-four degrees twenty-three minutes west for five hundred and forty-eight feet; thence north twenty degrees nineteen minutes east for six hundred and thirty-nine feet; thence north sixty-two degrees one minute east for two hundred and sixty-two feet; thence south twenty-seven degrees seven minutes east for twelve hundred and fifty-five feet, to a point fifty feet from the head of the main dock and on a line with the north-east face thereof; thence south thirty-three degrees four minutes west for forty feet to the point of beginning.

AT ELLIS'S ISLAND.

At Ellis's Island. Beginning at a point fifty feet from the head of the east dock and on a line with the north face of said dock; running thence south eighteen degrees thirty minutes east for six hundred and five feet; thence south seventy-one degrees thirty minutes west for two hundred and two feet; thence north eighty-one degrees nineteen minutes west for three hundred and thirteen feet; thence north thirty-two degrees four minutes west for one hundred and seventy-eight feet, this line being parallel to the head of the west dock, and distant fifty feet from said dock; thence due north for five hundred and seventy-seven feet; thence south seventy degrees forty-seven minutes east for four hundred and twenty-four feet to the point of beginning.

AT DAVID'S ISLAND.

At David's Island. Beginning at a point one hundred and fifty feet from the head of the new dock (commonly called the coal dock), and on a line with the north-west face of said dock; running thence north three degrees twenty minutes east for seven hundred and fifty-five feet; thence north seventy-nine degrees five minutes east for six hundred and thirty feet; thence north six degrees twelve minutes east for ten hundred and ninety-six feet; thence north fifty-two degrees twenty-five minutes east for five hundred and fifty-two feet; thence south sixty-nine degrees eighteen minutes east for six hundred and forty-seven feet; thence south thirty-six degrees twenty-eight minutes east for six hundred and four feet; thence south thirty-five minutes east for ten hundred and sixty-six feet; thence south thirteen degrees fifty-four minutes east for eight hundred and thirty-

four feet; thence south twenty-three degrees fifty-five minutes west for four hundred and twenty-seven feet; thence south seventy-one degrees forty-nine minutes west for eleven hundred and twenty-one feet; thence north forty-eight degrees eighteen minutes west for fifteen hundred and fifty feet to the point of beginning.

AT FORT LAFAYETTE.

At Fort Lafayette. Beginning at a point ninety-two feet west from the prolongation of the west face of the fort, and eighty feet north from the prolongation of the north face of the said fort, running thence south sixty-seven degrees thirty-four minutes east for four hundred and forty-eight feet; thence south twenty-two degrees twenty-six minutes west for four hundred and forty-eight feet; thence north sixty-seven degrees thirty-four minutes west for four hundred and forty-eight feet; thence north twenty-two degrees twenty-six minutes east for four hundred and forty-eight feet to the point of beginning.

AT FORT HAMILTON.

At Fort Hamilton. Beginning at a point at high-water mark on the western boundary line of the United States land there situate; running thence in continuation of said boundary line south sixty-four degrees forty-five minutes west for three hundred and twenty feet; thence due south for two hundred and thirty-three feet to a point seventy-five feet from head of the dock (or wharf) and on a line with the north face of said dock; thence south forty-nine degrees thirty-seven minutes east for nineteen hundred and fifteen feet to a point on the continuation of the southern boundary line of the said United States land; thence along said continuation north twenty-one degrees ten minutes east for one hundred and sixty-five feet to a point at high-water mark, on said southern boundary line of said United States land.

AT FORT WADSWORTH (OR TOMPKINS) ON STATEN ISLAND.

At Fort Wadsworth. Beginning at a point at high-water mark on the northern boundary line of the United States land there situate; running thence in continuation of said boundary line north seventy-three degrees sixteen minutes east for forty feet to low-water mark; thence in continuation of said boundary line north seventy-three degrees sixteen minutes east for fifty feet; thence south forty-eight degrees twenty-three minutes east for ten hundred and seventy-three feet; thence south nine degrees east for sixteen hundred and fifty-two feet; thence south eighteen degrees fifty-seven minutes east for seven hundred feet; thence south forty degrees west for eight hundred and fifty feet to a point on the continuation of the western boundary line of the said United States land; thence north thirty degrees sixteen minutes west for one hundred feet along said continuation of boundary line to low-water mark; thence north thirty degrees sixteen minutes west for three hundred and fifty feet along said continuation to a point at high-water mark on the western boundary line of the United States land.

AT FORT SCHUYLER.

At Fort Schuyler. Beginning at a point on the boundary line of the land of the United States at high-water mark on the north shore of Throgg's Neck; running thence in continuation of said boundary line north twenty-one degrees ten minutes east for two hundred and fifty-seven feet to low-water mark; thence in continuation of said boundary line north twenty-one degrees ten minutes east for sixty-three feet; thence south one degree twenty-one minutes east for nine hundred and eighty-eight feet; thence south forty-one degrees east for thirteen hundred and fifty feet; thence south seventy-seven degrees twenty-four minutes east for nine hundred and six feet; thence south forty-four degrees twenty minutes east for five hundred and forty-three feet; thence south five degrees seventeen minutes west for six hundred and thirty-four feet; thence south fifty-

two degrees fifteen minutes west for six hundred and twenty-two feet; thence north sixty-three degrees nineteen minutes west for six hundred and ninety-eight feet; thence north fifty-four degrees thirteen minutes west for seventeen hundred and twenty-eight feet; thence north forty-nine degrees thirty-three minutes west for ten hundred and sixty-five feet to a point on the continuation of the boundary line of the said United States land at Throgg's Neck; thence on the line of said continuation north twenty-one degrees ten minutes east for seventy-seven feet to low-water mark; thence on line of said continuation north twenty-one degrees ten minutes east for one hundred and twenty-three feet to a point at high-water mark on the south shore of said Throgg's Neck and on the boundary line of the present United States land there situate; provided, that jurisdiction hereby ceded shall continue no longer than the United States shall own said lands at Governor's, Bedloe's, Ellis' and David's Islands, and at Forts Lafayette, Hamilton, Wadsworth and Schuyler, and the adjacent lands covered with water, herein described and hereby released; and provided, further, that all civil and such criminal process as may lawfully issue under authority of this state may be served or executed over said released lands.

Patent to be issued. § 2. The commissioners of the land office are hereby authorized and directed to issue a patent of said released lands to the United States.

L. 1880, Chap. 559 — An act granting the consent of the state of New York to the purchase by the United States of certain lands, pond, and rights for the purpose of increasing the water supply of West Point, New York, and ceding jurisdiction over said lands and pond.

Consent of state given to the purchase of lands by U. S. SECTION 1. The consent of the state of New York is hereby given to the purchase by the United States of America of a certain pond, known as Round pond, in the town of Highlands, county of Orange, state of New York, and of certain lands adjacent thereto, amounting in all to forty-nine and seventy-two one-hundredths acres, and of the right of laying a water-pipe from the same to the United States lands at West Point, New York, for the purpose of increasing the water supply thereof; and the said United States may hold, use, occupy and own the said lands and pond and exercise jurisdiction and control over the same and every part thereof, subject to the restrictions hereinafter mentioned.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York in and over said lands and pond mentioned in the last section shall be and the same is hereby ceded to the United States for the purpose aforesaid; and the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said lands and pond.

Concurrent jurisdiction. § 3. The consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said lands and pond so far as that all civil process in all cases and such criminal and other process as may issue under the laws or authority of the state of New York against any person or persons charged with crimes or misdemeanors committed within said state, may be executed therein in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Exempt from taxation. § 4. So long as the said lands and pond shall remain the property of the United States, and no longer, the same shall be and continue discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state.

Not to affect claim of Cornelius Nelson. § 5. This act shall not affect the claim of Cornelius Nelson in and to the minerals upon the said premises, nor the right of the public to enjoy the public highways as heretofore used.

L. 1881, Chap. 239—An act to authorize the United States to acquire certain minerals and mineral and other rights at or near Round pond, county of Orange, state of New York.

Consent to United States to acquire mineral rights, etc. SECTION 1. The United States is hereby authorized, through the secretary of war, to agree with the owner or owners of any minerals, mineral right or right appertaining to such mineral right in said lands and premises, purchased by the United States in manner aforesaid, to wit, said Round pond and lands adjacent thereto, in the town of Highlands, Orange county, New York, and with the owner of any such minerals, or mineral or other rights as aforesaid in the lands through which the right of laying a water pipe from Round pond to the United States lands at West Point, New York, was granted as aforesaid, as to the compensation to be paid for the same, and to acquire and hold said minerals, and mineral or other rights, as aforesaid.

Title how acquired. § 2. In case of any disagreement between the secretary of war and the owner or owners of said minerals, right or rights, as to the compensation to be paid for the same, or in case any such owner shall be an infant, or married woman, or insane, or absent from the state, or the owner of any uncertain or contingent interest, the supreme court, at any general or special term thereof, in the second judicial district, shall, on the application of either party, after ten days' personal notice in writing, or, when such notice cannot be served within the state, after three weeks' notice thereof published in the two newspapers last designated by the board of supervisors of the county of Orange for the publication of the session laws, nominate and appoint three disinterested persons commissioners to examine such property, right or rights as aforesaid, who, upon being duly sworn faithfully and impartially to perform their duties, shall estimate and report to said court the sum or sums which shall be a just compensation to such owner or owners for the appropriation to the use of the United States of said minerals, or mineral right or other rights as aforesaid; and the said commissioners, before proceeding to make such estimate, shall publish a notice once in each week for two weeks in the aforesaid newspapers, stating a time when and a place where they will meet to perform said duties, and at such time and place they are authorized and required to take and hear such proofs and allegations as may be offered by any such owner or owners, as aforesaid, and by the United States, as to the value of said minerals, and mineral or other rights; and the said commissioners may adjourn from time to time, as may be necessary, for the purpose of taking and hearing said proofs and allegations.

Report of commissioners; confirmation; payment. § 3. Whenever said report of said commissioners directed to be made to the supreme court, as aforesaid, shall be confirmed by said court, after eight days' notice in writing of a motion to confirm, served on the attorney or attorneys of such persons as may appear by attorney, the secretary of war may deposit, as the said court may direct, or pay to the said owner or owners of any such minerals, or mineral or other rights as aforesaid, or to such person as the court may direct, the sum or sums mentioned in said report, in full payment and satisfaction for any such minerals, or mineral or other rights so authorized to be acquired for the use of the United States.

L. 1882, Chap. 109—An act authorizing and requiring the commissioners of the land office to grant to the United States certain lands under water on the Hudson river, for the purpose of erecting thereon light-houses, and ceding jurisdiction thereon for such purpose.

When United States ask therefor, commissioners of land office may grant lands under water. SECTION 1. Whenever the constituted authorities of the United States government shall ask therefor under and by virtue of a statute of the congress of the United States, for the grant of lands under water on the Hudson river at Tarrytown, Livingston creek and in Persey's reach, between Catskill and Hudson, for the purpose of erecting at such points light-houses for the safe navigation of such river, said commissioners of the land office are hereby authorized and required to give and grant to the United States of America such lands under water so required for such purpose.

Jurisdiction ceded. § 2. Jurisdiction over such acquired property shall be and remain in the United States, except that all criminal and civil process of the state can be served within its jurisdiction.

L. 1882, Chap. 245—An act granting the consent of the state of New York to the acquisition by the United States of certain lands for the purpose of the erection of government buildings at Rochester, Syracuse, and Poughkeepsie, and ceding jurisdiction over the same.

United States may acquire real estate. SECTION 1. The consent of the state of New York is hereby given to the acquisition by the United States by purchase, in conformity with the laws of this state, of one or more pieces of land in the city of Rochester, not exceeding one acre in quantity, and also of one or more pieces of land in the city of Syracuse, not exceeding one acre in quantity, and also of one or more pieces of land in the city of Poughkeepsie not exceeding one acre in quantity, on which lands in each of said cities said United States may erect a government building, and the said United States shall have, hold, occupy and own the said lands when thus acquired, and exercise jurisdiction and control over the same and every part thereof, subject to the restrictions hereafter mentioned.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York, in and over the said land or lands mentioned in the foregoing section, when acquired by the United States, shall be and the same hereby is ceded to the United States, but the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said lands.

The state retains concurrent jurisdiction. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said land or lands so far as that all civil process in all cases, and such criminal or other process as may issue under the laws or authority of the state of New York against any person or persons charged with crimes or misdemeanors committed within this state, may be executed therein in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

When jurisdiction to vest. § 4. The jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said land or lands by purchase or condemnation in conformity with the laws of this state and so long as said land or lands shall remain the property of the United States, when acquired as aforesaid and no longer; the same shall be and continue exonerated from all taxes, assessments and other charges which may be levied or imposed under the authority of the state.

Malicious injuries, how punished. § 5. Any malicious, willful reckless or voluntary injury or mutilation of the grounds, buildings or appurtenances, shall subject the offender or offenders to a fine of not less than twenty dollars to which may be added for an aggravated offense, imprisonment, not exceeding six months, in the county jail or work-house, to be prosecuted before any court of competent jurisdiction.

Title to lands, how to be acquired. § 6. If the United States cannot acquire title to the lands above mentioned or any portion thereof by purchase, they shall cause application to be made to the supreme court for a writ of inquiry of damages, and such proceedings shall thereupon be had, and the damages ascertained and paid in the manner prescribed in the fourth article of title two, of chapter nine of the third part of the Revised Statutes.

L. 1883, Chap. 108 — An act giving the consent of the state of New York to the purchase by the United States of certain lands in the city of New York for customs purposes.

Consent of state to purchase of lands by United States. SECTION 1. The consent of the state of New York is hereby given to the acquisition by the United States by purchase for customs purposes, of the lands and premises with the buildings and improvements thereon, situate in the city of New York, and bounded by Washington, West, Laight and Hubert streets in said city, and now occupied by the United States, under lease for appraisers' stores, and the United States may hold, occupy and enjoy the said lands and premises, or so much thereof as may be required within the aforesaid boundaries, when the same shall be acquired pursuant to this act, subject to the restrictions hereinafter mentioned.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York, in and over the said lands mentioned in the foregoing section, when the same shall be acquired by the United States, shall be and hereby is ceded to the United States, but the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said lands.

State retaining concurrent jurisdiction. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said land and premises so far as that all civil process in all cases, and such criminal and other process as may issue under the laws or authority of the state of New York against any person or persons charged with crimes or misdemeanors committed within this state may be executed therein in the same way and manner, and with the like effect, as if such consent had not been given, or jurisdiction ceded except so far as such process may affect the real or personal property of the United States.

Jurisdiction not to vest till title is acquired. § 4. The jurisdiction hereby ceded shall not vest until the United States shall have acquired title to the said lands and premises by purchase, and shall continue so long as said lands shall remain the property of the United States, and no longer; and while the said lands and premises shall remain the property of the United States, but no longer, the same shall be and continue exonerated and exempt from all taxes, assessments, and other charges which may be levied or imposed under the authority of this state.

L. 1883, Chap. 128 — An act ceding jurisdiction and ownership to the United States over the site of a proposed light-house on Latimer's reef, Fisher's Island sound, New York.

Jurisdiction ceded. SECTION 1. Jurisdiction and ownership is hereby ceded to the United States of America over the site proposed for a light-house to be erected on Latimer's reef, in Fisher's Island sound, New York, namely, the area embraced within a circle seven hundred feet in diameter, the centre of which shall be the spindle now marking the said site of "Latimer's reef."

Condition. § 2. The said jurisdiction and ownership is ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said property, so far as that all civil and criminal process which may issue under the laws or authority of the state of New York may be executed therein in the same way and manner as if such jurisdiction had not been ceded, except so far as such process may affect the real or personal property of the United States.

Exempt from taxation. § 3. The said property shall be and continue forever thereafter exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state; but the jurisdiction and ownership hereby ceded and the exemption from taxation hereby granted shall continue in respect to said property so long as the same shall remain the property of the United States and be used for light-house purposes, and no longer.

L. 1883, Chap. 223 — An act giving the consent of the state of New York to the purchase by the United States of America of parcels of land for light-house purposes, at Danskamer Point, Orange county, and at the Narrow Channel, in Greene county, Hudson river, and ceding jurisdiction over the same.

Consent of state given to purchase by United States of lands described. SECTION 1. The consent of the state of New York is hereby given to the purchase by the United States of the following pieces or parcels of land: At Danskamer Point, on the western side of the river, at a point near the northern boundary of Orange county, the site for a light-house or fog-signal, not exceeding an acre in extent. At the Narrow Channel, on the west side of the river, in Greene county, distant about three-fourths of a mile due north of the Four-Mile Point light-house, a piece of land not exceeding twenty-five feet square. The said pieces or parcels of land are to be used for the purposes of establishing and maintaining thereon light-houses, fog-signals or other aids to navigation, and the said United States may hold, occupy and use the said lands when so purchased, and exercise jurisdiction and control over the same, subject to the restrictions hereinafter mentioned.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York in and over said pieces of land when purchased shall be and is hereby ceded to the United States for the purposes of said light-houses, fog-signals or other aids to navigation, and the jurisdiction so ceded shall continue so long as the United States thus use and own the said land.

Conditions as to jurisdiction. § 3. The said consent is given and the jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States, so far that all civil and criminal process as may issue under the laws or authority of this state may be executed on said lands in the same manner as if such consent had not been given or jurisdiction ceded.

When jurisdiction to vest. § 4. The jurisdiction hereby ceded shall not vest until the United States shall have acquired title to the said pieces of land, nor until the map and description mentioned in the next section shall have been filed and

recorded as therein required. And so long as the said land shall remain the property of the United States and no longer, the same shall be and continue exonerated and discharged from all taxes, assessments or other charges which may be levied or imposed under the authority of this state.

Map, etc., to be filed. § 5. A map and description by metes and bounds of the lands purchased under the provisions of this act shall be filed in the office of the secretary of state and by him recorded.

L. 1883, Chap. 385 — An act giving the consent of the state of New York to the purchase, by the United States, of land in the city of Brooklyn for the purpose of a post-office.

United States may purchase lands. SECTION 1. The consent of the state of New York is hereby given to the purchase, by the United States, of any lands in the city of Brooklyn for a site for a post-office.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York in and over said lands is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

Condition as to concurrent jurisdiction. § 3. The said consent is given and the said jurisdiction is ceded upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said land, so far as that all civil or criminal process which may issue under the laws or authority of said state may be executed therein, in the same manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

When jurisdiction to vest. § 4. The jurisdiction hereby ceded shall not vest in any respect to said lands, until the United States shall have acquired the title thereto, by purchase or otherwise.

Exemption from taxes. § 5. The said land acquired under the provisions of this act shall be and continue forever thereafter exempted, and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue in respect to said land so long as the same shall remain the property of the United States, and be used for public purposes, and no longer.

L. 1884, Chap. 11 — An act giving the consent of the state of New York to the purchase by the United States of America of a piece of land for light-house purposes at Hallett's Point, Hell Gate, in Queens county, and ceding jurisdiction over the same.

United States may purchase lands. SECTION 1. The consent of the state of New York is hereby given to the purchase by the United States of America of all that certain piece or parcel of land at Hallett's Point (Hell Gate), in Queens county, bounded and described as follows: Beginning at a point in the westerly line of lot number eighty-nine, and situated one hundred feet from the westerly side of Monson street, if the same were extended, and which point is three feet six inches distant from the south-west corner of said lot number eighty-nine, and running

thence north-westerly, at right angles to said Monson street, one hundred and fifty-four feet, to low water of the East river; thence along low water line with a course about north, seventy-eight degrees east, about two hundred and ten feet to a point in the prolongation of the said westerly side of Monson street, if the same were extended; thence south-westerly parallel to the westerly side of Monson street and in a line one hundred feet distant therefrom, about one hundred and forty feet to the point or place of beginning. The said last-mentioned line or boundary being coincident with the easterly side of the concrete foundations which have been built for the electric tower now in course of erection at Hallett's Point, for the purpose of establishing thereon light-houses or other aids to navigation.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York in and over the above described property shall be and is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

Condition as to concurrent jurisdiction. § 3. The said consent is given, and the said jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said property so far as that all civil and criminal process which may issue under the laws or authority of the state of New York may be executed thereon in the same way and manner as if such consent and jurisdiction had not been given.

When to vest. § 4. The jurisdiction hereby ceded shall not vest, in any respect, to any portion of said property until the United States shall have acquired title thereto by purchase or otherwise.

Exemption from taxes. § 5. The said property when acquired by the United States shall be and continue forever thereafter exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue in respect to said property so long as the same shall remain the property of the United States and be used for public purposes, and no longer.

L. 1884, Chap. 75 — An act ceding jurisdiction over certain land to the United States and permitting its use for cemeterial purposes.

Jurisdiction ceded; purpose; concurrent jurisdiction. SECTION 1. The jurisdiction of this state over a certain piece or parcel of land, situate partly in the town of New Lots, Kings county, and partly in the town of Newtown, Queens county, containing fifteen and thirty-nine one-hundredths acres, an accurate description and plat of which, sworn to by an officer of the United States, has been deposited in the office of the secretary of the state of New York, is hereby ceded to the United States of America, for the purpose of establishing a national cemetery whenever said land shall be acquired by the United States: Provided, that this cession is upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over said land when acquired as aforesaid, so far as that all civil and criminal process issuing under the authority of this state may be executed on said land in the same way and manner as if this act had not been passed; and exclusive jurisdiction shall revert to this state whenever said land shall cease to be the property of the United States.

Exemption from taxes. § 2. The land aforesaid, when acquired, shall be forever exempt from all taxes and assessments so long as the same shall remain the property of the United States.

L. 1884, Chap. 273 — An act to provide for the acquisition of title by the United States to land under water on the Hudson river for light-house purposes, and to cede jurisdiction thereof.

Commissioners authorized to convey lands to United States. SECTION 1. The board of land commissioners are hereby authorized to convey to the United States the title to any tracts of land under water on the Hudson river within the State necessary for the purpose of erecting light-houses, beacon lights, range lights, or other aid to navigation and light keepers' dwellings, upon the application of the constituted authorities of the United States; provided, that said title shall revert to and revest in the state whenever the said premises shall cease to be used for the purposes hereinbefore described.

Jurisdiction. § 2. Jurisdiction over such acquired property shall be and remain in the United States subject to the proviso aforesaid, except that all criminal and civil process of the state can be served within its jurisdiction.

L. 1885, Chap. 96 — An act granting the consent of the state of New York to the acquisition by the United States of certain lands for the purpose of the erection of government buildings at the cities of Troy and Auburn, and ceding jurisdiction over the same.

Consent of state given. SECTION 1. The consent of the state of New York is hereby given to the acquisition by the United States by purchase, in conformity with the laws of this state, of one or more pieces of land in the city of Troy, not exceeding one acre in quantity, and also one or more pieces of land in the city of Auburn, not exceeding one acre in quantity, on which lands in each of said cities, said United States may erect a government building, and the said United States shall have, hold, occupy and own the said lands when thus acquired, and exercise jurisdiction and control over the same and every part thereof, subject to the restrictions hereafter mentioned.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York, in and over the said lands mentioned in the foregoing section, when acquired by the United States, shall be and the same hereby is ceded to the United States, but the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said lands.

Condition as to concurrent jurisdiction. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said land or lands so far as that all civil process in all cases, and such criminal or other process as may issue under the laws or authority of the state of New York against any person or persons charged with crimes or misdemeanors committed within this state, may be executed therein in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Not to vest until United States acquires title. § 4. The jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said land or lands by purchase or condemnation in conformity with the laws of this state and so long as said land or lands shall remain the property of the United States, when acquired as aforesaid, and no longer; the same shall be and continue exonerated from all taxes, assessments and other charges which may be levied or imposed under the authority of the state.

Willful injuries. § 5. Any malicious, willful, reckless or voluntary injury or mutilation of the grounds, building or appurtenances, shall subject the offender or

offenders to a fine of not less than twenty dollars to which may be added for an aggravated offense, imprisonment, not exceeding six months, in the county jail or work-house, to be prosecuted before any court of competent jurisdiction.

Title, how to be acquired. § 6. If the United States cannot acquire title to the land or lands above mentioned or any portion thereof by purchase, they shall cause application to be made to the supreme court for a writ of inquiry of damages, and such proceedings shall thereupon be had, and the damages ascertained and paid in the manner prescribed in the sixth article of title two of chapter sixteen of the Code of Civil Procedure.

L. 1886, Chap. 46 — An act granting the consent of the state of New York to the acquisition by the United States of certain lands in the city of New York.

Purchase of Old Produce Exchange authorized. SECTION 1. The consent of the state of New York is hereby given to the acquisition by the United States by purchase, in conformity with the laws of the state of New York, of certain land and grounds situate in the city of New York, bounded by Whitehall, Pearl, Moore, and Water streets, together with the building thereon, known as the Old Produce Exchange; and the said United States shall have, hold, occupy and own the said lands when thus acquired and exercise jurisdiction and control over the same and every part thereof, subject to the restrictions hereafter mentioned.

Cession of jurisdiction. Proviso. § 2. The jurisdiction of the state of New York, in and over the said lands mentioned in the foregoing section, when acquired by the United States, shall be and the same is hereby ceded to the United States, but the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said lands.

Concurrent jurisdiction of state for service of process. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said land or lands so far as that all civil process in all cases, and such criminal or other process as may issue under the laws or authority of the state of New York against any person or persons charged with crimes or misdemeanors committed within this state, may be executed therein in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Jurisdiction not to vest until United States acquires title; exemption from state taxation. § 4. The jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said land or lands by purchase or condemnation in conformity with the laws of this state and so long as said land or lands shall remain the property of the United States when acquired as aforesaid, and no longer; the same shall be and continue exonerated from all taxes, assessments and other charges which may be levied or imposed under the authority of the state.

Injury to grounds or building, how punished. § 5. Any malicious, willful, reckless or voluntary injury or mutilation of the grounds, building or appurtenances shall subject the offender or offenders to a fine of not less than twenty dollars, to which may be added for an aggravated offense imprisonment not exceeding six months in the county jail or work-house, to be prosecuted before any court of competent jurisdiction.

L. 1886, Chap. 47—An act granting the consent of the state of New York to the acquisition by the United States of certain land situate on Mount McGregor, in Saratoga county, known as the "Drexel Cottage," and ceding jurisdiction over the same.

Acquisition of Drexel cottage grounds authorized; description of premises. SECTION 1. The consent of the state of New York is hereby given to the acquisition by the United States by purchase, gift or grant, in conformity with the laws of this state, of certain land situate upon Mount McGregor, in Saratoga county, bounded and described as follows: Commencing at the north-east corner of the lot herein granted, upon which lot is located a cottage known as the "Drexel" cottage, and at a point where an iron pin is driven into the ground, and running southerly on a line parallel with the easterly foundation of said cottage, and fifty feet distant therefrom, one hundred and forty-six feet to an iron pin driven into the ground at the south-east corner of said lot; thence westerly on a line parallel with the south foundation of said cottage and fifty feet distant therefrom one hundred and thirty-one feet to an iron pin driven into the ground at the south-west corner of said lot; thence northerly on a line parallel with the westerly foundation of said cottage and fifty feet distant therefrom, one hundred and forty-six feet to an iron pin driven into the ground at the north-west corner of said lot; thence easterly on a line parallel with the northerly foundation of said cottage and fifty feet distant therefrom, one hundred and thirty-one feet, to the place of beginning; and the said United States shall have, hold occupy and own the said lands when thus acquired, and exercise jurisdiction and control over the same and every part thereof, subject to the restrictions hereinafter mentioned.

Cession of jurisdiction. § 2. The jurisdiction of the state of New York in and over the said land mentioned in the foregoing section, when acquired by the United States, shall be, and the same hereby is, ceded to the United States, but the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said lands.

Concurrent jurisdiction of state for service of process. § 3. The said consent is given and the said jurisdiction ceded, upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said land or lands so far as that all civil process, in all cases, and such criminal or other process as may issue under the laws or authority of the State of New York against any person or persons charged with crimes or misdemeanors committed within this state, may be executed therein in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

Jurisdiction not to vest until United States acquires title; exemption from state taxation. § 4. The jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said land or lands by purchase, gift or grant; and so long as said land shall remain the property of the United States, when acquired as aforesaid, and no longer, and the same shall be and continue exonerated from all taxes, assessments and other charges which may be levied or imposed under the authority of the state.

L. 1886, Chap. 93—An act granting the consent of the state of New York to the acquisition by the United States of certain lands, for the purpose of the erection of a government building at the city of Hudson, and ceding jurisdiction over the same.

United States may purchase lands; may exercise jurisdiction. SECTION 1. The consent of the state of New York is hereby given to the acquisition by the United States by purchase, in conformity with the laws of this state, of one or more pieces of land

in the city of Hudson, not exceeding one acre in quantity, on which lands in said city said United States may erect a government building, and the said United States shall have, hold, occupy and own the said lands when thus acquired, and exercise jurisdiction and control over the same and every part thereof, subject to the restrictions hereinafter mentioned.

Jurisdiction to continue during ownership. § 2. The jurisdiction of the state of New York, in and over the said land or lands mentioned in the foregoing section, when acquired by the United States, shall be and the same is hereby ceded to the United States, but the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said lands.

State to retain concurrent jurisdiction. § 3. The said consent is given and the said jurisdiction ceded upon the express condition, that the state of New York shall retain concurrent jurisdiction with the United States, in and over the said land or lands so far as that all civil process in all cases, and such criminal or other* process as may issue under the laws or authority of the state of New York, against any person or persons charged with crime or misdemeanors, committed within this state, may be executed therein in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real and personal property of the United States.

Jurisdiction, when to begin. § 4. The jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said land or lands by purchase or condemnation in conformity with the laws of this State.

Proceedings to acquire title to lands. § 5. If the United States cannot acquire title to the lands above mentioned or any portion thereof by purchase, they shall cause application to be made to the supreme court of this state, for a writ of assessment of damages, and such proceedings shall thereupon be had and the damages ascertained and paid in the manner prescribed in the sixth article of title two of chapter sixteen of the Code of Civil Procedure.

L. 1887, Chap. 91 — An act granting the consent of the state of New York to the acquisition by the United States, of certain lands for the purpose of the erection of a government building at the city of Binghamton, and ceding jurisdiction over the same.

United States may acquire land and exercise jurisdiction. SECTION 1. The consent of the state of New York, is hereby given to the acquisition by the United States by purchase, in conformity with the laws of this state, of one or more pieces of land in the city of Binghamton, not exceeding one acre in quantity, on which land said United States may erect a government building, and the said United States shall have, hold, occupy and own the said land when thus acquired, and exercise jurisdiction and control over the same and every part thereof, subject to the restrictions hereafter mentioned.

Jurisdiction during ownership. § 2. The jurisdiction of the state of New York, in and over the said land mentioned in the foregoing section, when acquired by the United States shall be and the same hereby is ceded to the United States, but the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said land.

Concurrent state jurisdiction. § 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said land or lands, so far as that all civil process in all cases, and such criminal or other process as may issue under the laws or authority of the state of New York against any person or

* So in the original.

persons charged with crimes or misdemeanors committed within this state, may be executed therein, in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

When to vest. § 4. The jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said land or lands by purchase or condemnation in conformity with the laws of this state.

Proceedings to acquire title. § 5. If the United States can not acquire title to the land or lands above mentioned, or any portion thereof, by purchase, they shall cause application to be made to the supreme court for a writ of assessment of damages, and such proceedings shall thereupon be had, and the damages be ascertained and paid in the manner prescribed in the sixth article of title two of chapter sixteen of the Code of Civil Procedure.

L. 1887, Chap. 92—An act authorizing and requiring the commissioners of the land office to grant to the United States certain land under water in Whitehall narrows, Lake Champlain, for the purpose of erecting thereon a light-house, and ceding jurisdiction thereon for such purposes.

Land commissioners may make grant. SECTION 1. Whenever the constituted authorities of the United States government shall ask therefor, under and by virtue of a statute of the congress of the United States, for the grant of land under water in Whitehall narrows, Lake Champlain, at a point on the westerly edge of the channel opposite Devil's Pulpit, so-called, in the town of Dresden, county of Washington, the board of land commissioners of this state are hereby authorized to convey to the United States the land embraced in the following description: A circle two hundred feet in diameter, the centre of which bears from the following points as follows: From beacon number twelve, north forty-five degrees thirty minutes east; from beacon number fifteen, south thirty-seven degrees west; from Devil's Pulpit, south sixty degrees east; from Pulpit Point, north fifty degrees east; for the purpose of erecting on said land a light-house for the safe navigation of such channel, so required for such purpose.

Jurisdiction. § 2. Jurisdiction over such acquired property shall be and remain in the United States, except that all criminal and civil process of the state can be served within its jurisdiction.

L. 1888, Chap. 300—An act in relation to the purchase by the United States of certain land adjoining the military reservation at West Point, New York, and ceding jurisdiction of this state over lands to the United States.

Consent given; jurisdiction reserved. SECTION 1. Consent is hereby given under paragraph seventeen of section eight, article one of the constitution of the United States, to the purchase by the United States of the whole or a part of the lands of the estate of the late E. V. Kinsley lying to the south of and adjoining the government lands at West Point, New York, in the county of Orange, and now the property of the heirs of said Kinsley. For the erection and maintenance thereon of forts, magazines, arsenals, dock yards, military academy, hospitals and other

needful buildings; and the legislature hereby also cedes the jurisdiction over said land to the United States. Reserving the right to serve civil and criminal process as now existing except so far as such process may affect the real or personal property of the United States, and the occupancy of the highways now existing or which may exist upon said lands under the laws of the state.

When act takes effect. § 2. This act shall take effect upon the filing by the United States in the department of state of the state of New York, of proper evidence of the purchase of said lands by the United States, either by agreement with the heirs of the said E. V. Kinsley or in the mode provided by the laws of the state of New York.

L. 1888, Chap. 357—An act to authorize the United States to purchase land in the city of Buffalo, Erie county, and state of New York, for the purpose of erecting a government building thereon.

Consent given. SECTION 1. The consent of the state of New York is hereby given to the acquisition by the United States by purchase, in conformity with the laws of this state, of one or more pieces of land in the city of Buffalo, not exceeding one acre in quantity, on which lands in said city, said United States may erect a government building, and the said United States shall have, hold, occupy and own the said land when thus acquired, and exercise jurisdiction and control over the same and every part thereof, subject to the restrictions hereinafter mentioned.

Jurisdiction ceded. § 2. The jurisdiction of the state of New York, in and over the said land mentioned in the foregoing section, when acquired by the United States, shall be, and the same hereby is ceded to the United States, but the jurisdiction hereby ceded shall continue no longer than the said United States shall own the said lands.

Jurisdiction reserved. § 3. The said consent is given and the said jurisdiction ceded, upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the said land or lands, so far as that all civil process in all cases, and such criminal or other process as may issue under the laws or authority of the state of New York, against any person or persons charged with crimes or misdemeanors committed within this state, may be executed therein in the same way and manner as if such consent had not been given or jurisdiction ceded, except, so far as such process may affect the real or personal property of the United States.

When act to take effect. § 4. The jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said land or lands, by purchase or condemnation, in conformity with the laws of this state; and so long as said land or lands shall remain the property of the United States, when acquired as aforesaid, and no longer, the same shall be and continue exonerated from all taxes, assessments, and other charges which may be levied or imposed under the authority of the state.

How United States may acquire title. § 5. If the United States cannot acquire title to the land or lands above mentioned, or any portion thereof by purchase, they shall cause application to be made to the supreme court for a writ of inquiry of damages, and such proceedings shall thereupon be had, and the damages ascertained and paid in the manner prescribed in the sixth article of title two of chapter sixteen of the Code of Civil Procedure.

CHAPTER II.

OF THE CIVIL DIVISIONS OF THE STATE.

TITLE I.—OF THE SEVERAL COUNTIES OF THE STATE.

TITLE II.—OF THE SENATE DISTRICTS.

TITLE III.—OF THE CONGRESS DISTRICTS.

TITLE IV.—OF THE SEVERAL TOWNS OF THIS STATE.

TITLE V.—OF THE SEVERAL CITIES IN THIS STATE.

TITLE VI.—GENERAL PROVISIONS CONCERNING THE ERECTION AND ALTERATION OF COUNTIES, ETC.

[Supplementary Titles.

TITLE 6^A—Of the Assembly Districts.

TITLE 6^B—Of the Judicial Districts.]

TITLE I.¹

Of the several Counties of the State.

- SEC. 1. Names of the different counties.
2. Their boundaries.
3. Lines to be taken as the magnetic needle pointed at the time of their establishment.
4. Rights of persons not to be affected by the description of boundaries.
5. Division line between counties separated by a river or creek.
6. In what county an island is to be deemed, which is crossed by the boundary line of two counties.
7. Concurrent jurisdiction in Kings, Richmond, and New York, over certain waters.
8. By officers of what counties process may be served on Seneca lake.

SECTION 1. The state shall be divided into fifty-six counties, called Suffolk, Queens, Kings, Richmond, New-York, Westchester, Putnam, Dutchess, Rockland, Orange, Ulster, Sullivan, Delaware, Greene, Columbia, Albany, Rensselaer, Schoharie, Schenectady, Saratoga, Montgomery, Hamilton, Washington, Warren, Essex, Clinton, Franklin, St. Lawrence, Herkimer, Oneida, Madison, Oswego, Lewis, Jefferson, Otsego, Chenango, Broome, Cortland, Tompkins, Tioga, Steuben, Onondaga, Cayuga, Seneca, Ontario, Yates, Wayne, Livingston, Monroe, Genesee, Orleans, Niagara, Erie, Allegany, Cattaraugus and Chautauque.²

Names of the different counties.

[In addition to the counties above enumerated, the counties of Chemung, Fulton, Schuyler and Wyoming have been erected since the R. S. were enacted.]

§ 2. The extent and limits of the several counties shall be as follows :

1. The county of Suffolk³ shall contain all that part of this state, bounded easterly and southerly, by the Atlantic ocean: northerly, by the Long-Island Sound: and westerly, by Lloyd's Neck, or Queen's village, Cold-Spring harbor, and the east bounds of the township of Oyster-Bay, and the same line continued due south to the Atlantic ocean; including the Isle of Wight, now called Gardiner's Island, Fisher's Island, Shelter Island, Plumb Island, Robin's Island, Ram Island, and the Gull Islands.

Boundaries of counties. Suffolk.

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¹ All this title after § 1, was published by the revisers in Vol. 3. It is now inserted in its proper place, the original paging of Vol. 3 being preserved in the margin.

² The word "Chautauque" is now written "Chautauqua."

³ Lloyd's Neck transferred to Suffolk county, L. 1896, ch. 667.

- TITLE 1.**
- Queens.** 2. The county of Queens shall contain all that part of this state, bounded easterly, by Suffolk county: southerly, by the Atlantic ocean: northerly, by the Long-Island Sound: and westerly, by the west bounds of the townships of Newtown and Jamaica; including Lloyd's Neck, or Queen's village, and the islands called the Two Brothers, and Hallet's Island, and all the islands in the sound opposite to the said bounds, and southward of the main channel.¹
- Kings.** 3. The county of Kings shall contain all that part of this state, bounded easterly, by Queens county: northerly, by the county of New-York: westerly, by the middle of the main channel of the Hudson river, from the southern boundary of the county of New-York, to the ocean: and southerly, by the Atlantic ocean; including Coney Island and Barren Island, together with all the islands south of the town of Gravesend.
- Richmond.** 4. The county of Richmond shall contain the islands called Staten-Island, Shooter's Island, and the islands of meadow on the west side of Staten-Island, and all the waters and lands under water of this state around the same, situate to the southward and westward of the middle of the main channel of the bay and harbor of New-York, as far as the bounds of this state extend.
- New York.** 5. The county of New-York shall contain the islands called Manhattan's Island, Great Barn Island, Little Barn Island, Manning's Island, Nutten Island, Bedlow's Island, Bucking Island, and the Oyster islands; and all the land under water within the following bounds: beginning at Spytten Duyvel creek, where the same empties itself into the Hudson river on the Westchester side thereof, at low water mark, and running thence along the said creek, at low water mark, on the Westchester side thereof, to the East river or Sound; then to cross over to Nassau, or Long-Island, to low water mark there, including Great Barn Island, Little Barn Island, and Manning's Island; then along Nassau or Long-Island shore, at low water mark, to the south side of the Redhook; then across the North river so as to include Nutten Island, Bedlow's Island, Bucking Island, and the Oyster islands, to the west bounds of the state; then along the west bounds of the state, until it comes directly opposite to the first mentioned creek, and then to the place where the said boundaries began.²
- Westchester.** 6. The county of Westchester shall contain all that part of this state, bounded southerly, by Long-Island Sound: easterly, by the east bounds of the state: northerly, by the north bounds of the manor of Cortlandt, and the same line continued east to the bounds of the state, and west to the middle of Hudson's river: and westerly, by a line running from thence down the middle of Hudson's river, until it comes opposite to the bounds of the state of New-Jersey, on said river; then west to the same; then southerly along the west bounds of this state, to the line of the county of New-York; and then along the same easterly and southerly to the Sound, or East river, including Captain's Island, and all the islands in the Sound to the east of Frog's Neck, and the northward of the main channel.³

¹ As to the boundary between Queens and Suffolk, see L. 1860, ch. 530. Riker's island transferred to New York county, L. 1884, ch. 262; Lloyd's Neck transferred to Suffolk county, L. 1886, ch. 667.

² Towns of Morrisania, West Farms and Kings Bridge, from Westchester county, annexed to New York. See L. 1873, ch. 613; L. 1874, ch. 329; L. 1876, ch. 411. Riker's Island annexed, L. 1884, ch. 262, post. See also, L. 1886, ch. 469.

³ See the last preceding note.

7. The county of Putnam shall contain all that part of this state, bounded south, by the county of Westchester: easterly, by the east bounds of the state: northerly, by a line beginning in the middle of Hudson's river, west of the southwesternmost end of Breack-neck hill, and running thence east to the southwesternmost end of said hill; then north fifty-two degrees east, to the north bounds of the lands granted to Adolph Philipsie; then along the same east, to the east bounds of the state: and westerly, by the middle of Hudson's river.

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 Putnam.

8. The county of Dutchess shall contain all that part of this state, bounded easterly, by the east bounds of this state: southerly, by the county of Putnam: westerly, by the counties of Orange and Ulster: and northerly, by a line beginning at a point in the middle of the Hudson river, due east from the south bank of Sawyer's kill, on the west side of Hudson's river; then east to a line heretofore settled and established between Robert R. Livingston and Zachariah Hoffman, deceased, and others, as their mutual boundary, so far as it respected them individually, and running thence along the same as far as it runs, and the same course continued to the southernmost bend of Roeloff Jansen's kill; then along the southerly and easterly bounds of the manor of Livingston, to the northwest corner of the Oblong, in the division line between this state and the state of Massachusetts; and then along the said line easterly, to the division line between this state and the state of Connecticut.

Dutchess.

9. The county of Rockland shall contain all that part of this state, bounded southerly and southwesterly, by the line of the county of Westchester, where the same crosses Hudson's river, and the division line between this state and the state of New Jersey: easterly, by the middle of Hudson's river: and northerly and northwesterly, by a line drawn from the middle of the said river west to the mouth of Poplopen's kill, and running thence on a direct course to the east end of the mill dam formerly of Michael Weiman, across the Ramapough river; and then a direct course to the twenty mile stone standing in the said division line between this state and the state of New Jersey.

Rockland.

10. The county of Orange shall contain all that part of this state, bounded easterly, by the middle of Hudson's river: southerly, by the county of Rockland, and the division line between this state and the state of New Jersey: westerly, by the river Mongaap, and the division line between this state and the state of Pennsylvania: and northerly, by a line drawn from a point in the middle of Hudson's river, opposite the northeast corner of a tract granted to Francis Harrison and company, called the five thousand acre tract, to the same northeast corner; and running thence westerly along the north bounds of the same tract, and the north bounds of another tract granted to the said Francis Harrison, to the tract commonly called Wallace's tract; then along the lines of the same, northerly and westerly, to the northeastern bounds of a tract granted to Jacobus Kip, John Cruger, and others; then westerly along the northeasterly and northerly bounds thereof, to the northwest corner of the same; then westerly to the northeast corner of a tract of three thousand five hundred acres granted to Rip Van Dam, and others; then southerly along the same, to the northeast corner of a tract of three thousand acres granted to

Orange.

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TITLE 1. Henry Wileman; then along the north bounds thereof to the Paltz river, commonly called the Wallkill; then southerly up the said river to the southeast corner of a tract of four thousand acres granted to Gerardus Beekman and others; then westerly and northerly, along the southerly and westerly bounds thereof, to the northeast corner thereof; then northwesterly along the north bounds of the tract granted to Jeremiah Schuyler and company, to the middle of the Shawangunk kill; then southwestly through the middle of said kill, to the north part of the farm formerly in the occupation of Joseph Wood, junior; and then west to the said river Mongaap.

Ulster. 11. The county of Ulster shall contain all that part of this state, bounded as follows: beginning in the middle of Hudson's river, opposite to the north end of Wanton island, and running thence in a direct line to the said north end; then north forty-eight degrees west, four hundred and forty-five chains, to the west bounds of the patent granted to Johannes Hallenbeck; then along the same, south eight degrees west, seventy-one chains, to or near the end of a stone wall in the forks of the road between the houses now or heretofore of Hezekiah Wynkoop and Daniel Drummond; then north eighty-nine degrees west, eighty-seven chains, to stones near a chestnut tree cornered and marked, being the corner of lots number one and two, in the subdivision of great lot number twenty-six of the Hardenburgh patent; then along the division line between said lots, north fifty-nine degrees and thirty minutes west, seventy-eight chains, to a rock oak tree, being the corner of the land now or heretofore of Gilbert E. Palen and Jonathan Palen; then south twenty-four degrees west, four hundred and eleven chains, to the line run by Jacob Trumpbour, in the year one thousand eight hundred and eleven, for the division line between the counties of Ulster and Greene; then along the said line until it intersects the northeasterly bounds of great lot number eight, in said patent; then along said bounds to the easterly bounds of the county of Delaware; then along the same southwestly to the bounds of the county of Sullivan; then southeasterly along the same to the county of Orange; then easterly along the northerly bounds of the county of Orange, to the middle of Hudson's river; and then up along the same to the place of beginning.

Sullivan. 12. The county of Sullivan shall contain all that part of this state bounded as follows: beginning in the westerly bounds of the state, opposite to the most southeasterly corner of lot number twenty-eight in the subdivision of great lot number two in the Hardenburgh patent, and running thence down the Delaware river along the division line between this state and the state of Pennsylvania, to a point opposite to where the river Mongaap falls into the Delaware river; then up and along the said river Mongaap, until an east course will strike the Shawangunk kill at the north bounds of the farm formerly occupied by Joseph Wood, junior; then east to the middle of the said Shawangunk kill; then down along the said middle to the mouth of the Plattekill; then up along the same to the southerly bounds of the patent of Rochester; then along the same, north forty-nine degrees thirty minutes west, twelve miles and a half; then north forty degrees east, to the division line between great lots number five and six, in

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Delaware.

the Hardenburgh patent; then along the said division line north-westerly to a line run by order of the surveyor-general, north sixty-two degrees east, from the place of beginning; then south sixty-two degrees west, along the said line, to the east bank of the Delaware river; and then in a straight line to the place of beginning.

13. The county of Delaware shall contain all that part of this state bounded as follows: beginning on the bank of the Delaware river, at the northwest corner of the county of Sullivan, and running thence north sixty-two degrees east, to the southwesterly bounds of great lot number eight in the Hardenburgh patent; then north, forty degrees east, to the southwesterly bounds of lot number five, in the subdivision of great lot number eight; then the same course continued twenty-four chains; then on a straight line to a point where the first mentioned line continued, crosses the northeasterly bounds of lot number six, in the subdivision of the great lot number eight; then along the first mentioned line continued to the northeast bounds of great lot number eight; then along the bounds of the said lot number eight, northwesterly to the southwest corner of lot number twenty in the said patent; then northeasterly along the division line between lots number nineteen and said lot number twenty, and that line continued, until it intersects the line formerly run from the head of Kaater's creek, to the Lake Utsyantho; then along the said line, and the southerly bounds of the county of Schoharie, to the Charlotte river; then down the middle thereof until the same is intersected by a line run south from the centre of lot number thirteen in McKee's patent; then in a direct line to the northeast corner of lot number thirty-five of Fitch's patent; then westerly to the northwest corner of lot number nine; then north to the northeast corner of lot number seven; then west along the north bounds of number seven and four to the northwest corner of said lot number four; then southwesterly along a line which shall be at the same distance from the mouth of Charlotte river as the northeast corner of the land now or late of Daniel Hunt is distant from the mouth of Cherry-Valley creek, to the middle of Charlotte river, then down along the same to the Susquehanna river; then down the middle of the Susquehanna river to Wallace's patent; then along the bounds thereof southerly and westerly to the land now or late of Daniel Swift; then along the same, south thirty-one degrees and five minutes east, thirty chains, and south fifty-eight degrees and fifty-five minutes west, forty-four chains and seventy-eight links, to land now or late of Benedict Northrup; then along the same, south thirty-one degrees and five minutes east, twelve chains; then south fifty-eight degrees and fifty-five minutes west, sixty-four chains, to the most southerly corner of land now or late of John Brimmer; then along the bounds thereof, north thirty-one degrees and five minutes west, to the bounds of said Wallace's patent; then along the same southwesterly to a line run south fourteen degrees west, from a large black oak tree marked T. C., and standing at the bank of the Susquehanna river, on lot number thirty-three in said patent; then along said line and the same continued northerly to the middle of said river; then down along the same to the line of property; then southerly, along the line of

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Greene.

property, to the Delaware river; then down the waters thereof, and along the bounds of the state, to the place of beginning.

14. The county of Greene shall contain all that part of this state, bounded southerly, by the county of Ulster and part of the county of Delaware: easterly, by the middle of Hudson's river: north and northwesterly, by a line drawn west from the southernmost part of Bearen island, in said river, to the southwest corner of the manor of Rensselaerwyck, and a line drawn thence to the place where the line formerly run from the head of Kaater's creek, to a small lake called Utsyantho intersects the Schoharie creek: and westerly, by the said county of Delaware; including also in said county of Greene, Scutter's island, Little island, and Willow island, or so much thereof as belongs to any of the inhabitants of said county.¹

Columbia. 15. The county of Columbia shall contain all that part of this state, bounded southerly, by the county of Dutchess: westerly, by the county of Greene: northerly, by an east line from the southernmost part of Bearen island, in Hudson's river, to the eastern bounds of this state: and easterly, by the northeast part of the county of Dutchess, and the eastern bounds of this state.

Albany. 16. The county of Albany shall contain all that part of this state, bounded northerly, by the counties of Saratoga and Schenectady: westerly, by the west bounds of the manor of Rensselaerwyck: southerly, by the county of Greene: and easterly, by the county of Rensselaer.

Rensselaer. 17. The county of Rensselaer shall contain all that part of this state, bounded easterly, by the eastern bounds of this state: southerly, by the county of Columbia: westerly, by the middle of the main stream of Hudson's river, with such variations as to include the islands lying nearest to the east bank thereof: and northerly, by a line beginning at the mouth of Lewis' creek or kill, and running thence south eighty-four degrees east, to the middle of Hoosick river: then up along the same, until it is intersected by a continuation of the before mentioned line, and then along such continuation, to the east bounds of the state.

Schoharie. 18. The county of Schoharie shall contain all that part of this state, bounded easterly, by the counties of Albany and Schenectady: northerly, by part of the south bounds of the county of Montgomery: westerly, by a line beginning at the southwest corner of a tract of land formerly granted to John Lyne, and running thence south twenty-one degrees and forty-eight minutes west, two hundred and nineteen chains, to the place where Joshua Tucker formerly resided; then south seven degrees and forty-eight minutes west, one hundred and ninety-three chains, to the easternmost line of the second allotment of the Belvidere patent; then south nine degrees east, six hundred and ninety-five chains, to a hill called Grover's hill; then with a direct line to the most northwesterly corner of Stroughburgh patent; then with a direct line to the Charlotte or Adiquatangie branch of the Susquehanna river, where it is intersected by a continuation of the northeasterly bounds of Harpersfield; then southeasterly along the same, and along the northeasterly bounds of

¹ Boundary between Greene and Schoharie altered by L. 1836, ch. 81. See next note.

Harpersfield, to the Lake Utsayantho; and southerly, by a line formerly run from the head of Kaater's creek to the said Lake Utsayantho, and by a part of the north bounds of the county of Greene.¹

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Schenectady.

19. The county of Schenectady shall contain all that part of this state, bounded as follows: beginning in the south bounds of the county of Saratoga, opposite a point on the Mohawk river, where it is nearest the north line of the manor of Rensselaerwyck, at Neskayuna, and running thence westerly, along the southerly bounds of the county of Saratoga, to the bounds of the Schenectady patent; then along the easterly and northerly bounds of said patent, to a line heretofore established, drawn north one degree and twenty-five minutes west, from a point on the Mohawk river, at the northeast corner of the tract granted to George Ingoldsby and others; then along the said line southerly, to the said northeast corner; then southerly along the north bounds of the last mentioned tract, and of the tracts granted to Walter Butler and Thomas Freeman, and to Alexander Philip and William Cosby, to the Schoharie creek; then along the said creek to the old Schoharie patent, granted to Myndert Schuyler; then along the eastern bounds thereof, to the tract granted to Johannes Lawyer; then along the south and easterly bounds of the tract granted to Jonathan Brewer, to the north bounds of the manor of Rensselaerwyck; then easterly, along the north bounds of the said manor, to a point opposite the place of beginning; and then northerly to the place of beginning.

Saratoga.

20. The county of Saratoga shall contain all that part of this state, bounded northerly, by the county of Warren: easterly, by the counties of Rensselaer, Washington, and Warren: southerly, by a line beginning at a point in the middle of Hudson's river, opposite to the middle of the most northerly branch of the Mohawk river, and running thence southerly along the middle of said Hudson's river to a point opposite to the middle of the next southerly branch of the Mohawk river; thence through the middle of said last named branch of said Mohawk river to a point in the middle of the main body of the Mohawk river; thence through the middle of said Mohawk river, westerly, to the east bounds of the county of Schenectady; then along the easterly and northerly bounds of the said county of Schenectady, to the northwest corner of said county; then north one degree and twenty-five minutes west, along a line heretofore established, drawn from a point on the Mohawk river at the northeast corner of the tract granted to George Ingoldsby and others, to the southwest corner of the county of Warren. [*This subdivision thus amended by L. 1888, ch. 42.*]

Montgomery.

21. The county of Montgomery shall contain all that part of this state, bounded northerly, by the south bounds of the county of Hamilton: easterly, by the counties of Schenectady and Saratoga: southerly and westerly, by the following lines: beginning at the northeast corner of a tract granted to George Ingoldsby and others, and running thence southwesterly along the northerly bounds thereof, and of the patents granted to Walter Butler, Thomas Freeman, and

¹ Town of Conesville, formed from Broome in Schoharie county and from Durham in Greene county, annexed to the former county. See L. 1836, ch. 31.

TITLE 1. Alexander Philip and William Cosby, and along the same line continued to the patent of John Bowen; then along the bounds thereof southerly and westerly to the northeast corner of the old Schoharie patent, granted to Myndert Schuyler; then westerly along a line run by order of the surveyor-general, in pursuance of an act passed the thirtieth day of March one thousand eight hundred and nine, to the southeast corner of a tract granted to William Cosby; then westerly along the same and along a tract granted to John Lyne, to the southwest corner thereof; then westerly along the north bounds of the county of Otsego, to a line drawn southerly from a point on the southerly bank of the Mohawk river, opposite the mouth of East Canada creek, and parallel to a line run from the Little Falls in the Mohawk river, to the mouth of the creek on which the mills formerly of Richard Carey were erected; then northerly with a straight line to the mouth of the East Canada creek; then up the said creek to the point where the south bounds of the tract called Jerseyfield intersects the said creek; and then north to the county of Hamilton.

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Hamilton. 22. The county of Hamilton shall contain all that part of this state, bounded on the south, by the north bounds of the tract called Jerseyfield and the south bounds of the township of Bensen continued to the west bounds of the county of Saratoga: on the east, by a part of the west bounds of the county of Saratoga, the west bounds of the county of Warren, and part of the west bounds of the county of Essex: on the north by the south bounds of Macomb's purchase: and on the west, by a line beginning at a point in the south bounds of Macomb's purchase, due north from the northwest corner of the tract called Arthorborough, and running thence south to said corner; then along the division line between Arthorborough and Nobleborough to their southern boundary; then south thirteen degrees west, as the magnetic needle pointed in the year one thousand eight hundred and two, to the north bounds of the tract called Jerseyfield.

Washing
ton.

23. The county of Washington shall contain all that part of this state, bounded southerly, by the county of Rensselaer: easterly, by the east bounds of this state: northerly, by a due west line drawn from the east bounds of this state, so as to strike Lake George in a range with the most westerly point of the rock commonly called Rogers' rock, situate on the west side of Lake George; and westerly, by the county of Warren, and the middle of Hudson's river, from where it leaves the southeast corner of the county of Warren, until it meets the north bounds of the county of Rensselaer.

Warren.

24. The county of Warren shall contain all that part of this state, bounded northerly, by a line running a due west course from the northwest corner of the county of Washington, so as to strike the most northerly point of the rock commonly called Rogers' rock, situate on the west side of Lake George, and continued due west until it intersects a line drawn from the Mohawk river, at the northeast corner of the tract granted to George Ingoldsby and others, north one degree and twenty-five minutes west: westerly, by the line last mentioned, until it intersects a line run due east to Fort George, near Lake George: and southerly, by the line last mentioned, until it strikes the north branch of Hudson's river, and by

TITLE I.

the middle of the said branch, and of the main stream of the said river, until it reaches the southeast corner of the patent of Queensbury, with such variations as may be necessary to include the whole of every island, any part whereof is nearer to the north or east shore of the said river, than to the south or west shore thereof; and to exclude the whole of every island, any part whereof is nearer to the said south or west shore than to the north or east shore aforesaid: and easterly, by the east bounds of said patent, and the same continued north to Lake George, and then along the east shore of said lake to the north bounds of the said county.

25. The county of Essex shall contain all that part of this state, bounded southerly, by the counties of Washington and Warren: easterly, by the east bounds of this state: westerly, by the west line of the counties of Saratoga and Warren, continued to Macomb's purchase; then along the south bounds thereof, to the southeast corner thereof; then along the east bounds thereof, to the northwest corner of township number eleven of the old military tract; then east along the north bounds thereof, and the north bounds of township number two, to the northeast corner thereof; then south along the line of the old military tract, to the middle of the channel of the north branch of the great river Ausable; then down the middle of the channel thereof, to the upper forks of said river; then down the middle of the channel of said river, to the south line of the great location; then easterly on said line to Lake Champlain; and then east to the east bounds of this state.

Essex.
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26. The county of Clinton shall contain all that part of this state, bounded southerly, by Essex county: easterly and northerly, by the bounds of this state; and westerly, by the east bounds of numbers seven, eight, nine and ten, of the old military townships.

Clinton.

27. The county of Franklin shall contain all that part of this state, bounded as follows: beginning in the north bounds of this state, at the northwest corner of the county of Clinton, and running thence southerly along the west bounds of said county, to the north bounds of the county of Essex; then along the same west to the northwest corner thereof; then south along the same to the southeast corner of Macomb's purchase; then westerly along the south line of said purchase, to the division line between great lots number one and two; then northerly along the same to the tract called the St. Regis reservation; then westerly and northerly along the bounds thereof to the north bounds of the state; and then along the same easterly to the place of beginning.

Franklin.

28. The county of St. Lawrence shall contain all that part of this state bounded as follows: Northerly and northwesterly, by the bounds of the state: easterly, by the county of Franklin: south, by the north bounds of Totten and Crossfield's purchase: and southwestly, by the division line between great lots number three and four of Macomb's purchase.

St. Lawrence.
Tence.

29. The county of Herkimer shall contain all that part of this state, bounded northerly, by the county of St. Lawrence: easterly, by the counties of Hamilton and Montgomery: southerly, by the county of Otsego: westerly, by a line beginning at the southwest corner of a tract called Cochran's patent, and running thence northerly and east-

Herkimer.

TITLE 1. erly along the bounds thereof, to a line beginning in the south bounds of the tract granted to William Bayard and others, called the Freemason's patent, where the same is intersected by a line run south from the former fording place in the Mohawk river, at old Fort Schuyler, now called Utica; and running thence north along said line, to the southerly line of Cosby's manor; then northeasterly in a direct line to the northerly bounds of said manor, at a point where the same is intersected by the division line between Gage's and Walton's patents; then northerly on the line between the said patents, to the West Canada creek; then up the said creek to the northeast corner of Service's patent; and then north to the county of St. Lawrence.

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Oneida. 30. The county of Oneida shall contain all that part of this state, bounded northerly by the county of Lewis and a small part of the county of Oswego: westerly, southwesterly and southerly, by the counties of Oswego and Madison, and a small part of the county of Otsego: and easterly, by the county of Herkimer.¹

Madison. 31. The county of Madison shall contain all that part of this state bounded as follows: beginning on the Unadilla river, at the southeast corner of township number eighteen, of the twenty townships, and running thence northerly along the same to the northeast corner of township number nineteen; then westerly along the north bounds thereof, to the east boundary line of township number three; then north along the same to the northeast corner thereof; then westerly along the north bounds thereof, and of the said twenty townships, westerly to the southwest corner of lot number fifty, in the first allotment of a tract called New-Petersburgh; then northerly on the west line of said lot number fifty, and of lot number sixty-nine, to the south line of New-Stockbridge; then the shortest line to the main branch of the Oneida creek; then northerly down said creek to the Oneida lake, and thence westerly along the southerly shore of Oneida lake to the military tract: westerly, by part of the east bounds of said military tract: and southerly, by the north bounds of the county of Chenango.²

Oswego. 32. The county of Oswego shall contain all that part of this state, bounded as follows: beginning in the bounds of this state at the southwest corner of the county of Jefferson, and running thence easterly along the south bounds of said county of Jefferson to the southeast corner of the township of Fenelon; then southerly along the line of townships to the north bounds of Scriba's patent; then westerly along the same to the northeast corner of township number five of said patent; then southerly along the east bounds of said township and of township number six to the north bounds of township number eleven; then easterly along said north bounds to the northeast corner thereof; then southerly along the east bounds thereof and the same continued to the north bounds of the county of Madison; then westerly along the same to the northeast corner of the county of Onondaga; then westerly along the north line of the said county to the northwest corner thereof; then north to the

¹ Boundary between Oneida and Madison altered by L. 1836, ch. 393 (see next note), and by L. 1879, ch. 91, *post*.

² Town of Stockbridge, formed from Vernon and Augusta in Oneida county, and from Smithfield and Lenox in Madison county, annexed to Madison. See L. 1836, ch. 393.

south line of the township of Hannibal; then west along the south bounds of said township to the west line of said township; then north along the west bounds thereof and the same course continued to the northern bounds of the state; and then along the same to the place of beginning.

TITLE 1.

33. The county of Lewis shall contain all that part of this state, Lewis. bounded as follows: beginning at the southeast corner of the county of Jefferson, and running thence southerly along the easterly bounds of the townships numbers seven and twelve in Constable's patent to the north bounds of Scriba's patent; then along the same easterly to the northeast corner thereof; then north sixty-two degrees east along the southerly line of Macomb's purchase, to the line of the county of Herkimer; then north along the west bounds of the county of Herkimer to the bounds of the county of St. Lawrence; then along the southwesterly bounds of the said county to the line of the county of Jefferson; and then along the easterly bounds of the said county to the place of beginning.

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34. The county of Jefferson shall contain all that part of this Jefferson. state, bounded as follows: beginning at the southwest corner of the township of Minos, and running thence along the southerly bounds of the said township, to the southeast corner thereof; then northerly along the easterly bounds thereof, to the southwest corner of the township of Atticus; then easterly along the south bounds of the townships of Atticus and Fenelon, to the southeast corner of the said township of Fenelon; then northerly along the east bounds of the township of Fenelon, to the northeast corner thereof; then westerly along the north bounds thereof, to the southeast corner of the township of Orpheus; then northerly along the east bounds of said township, to the south bounds of the township of Milan; then southerly along the southerly bounds of the said township, to the southwest corner of the township of Howard; then northeasterly along the southeasterly bounds of the said township, to the most easterly corner thereof, on the Black river; then up the said river, to a point where the division line between the nineteenth and twentieth northern ranges of lots, of great lot number four, of Macomb's purchase, strikes the river; then easterly along the said line, to the southwest corner of the lot in the twentieth northern and eighth western ranges; then northerly along the line between the eighth and ninth western ranges, to the southwest corner of the lot in the twenty-third northern, and eighth western ranges; then easterly along the division line between the twenty-second and twenty-third northern ranges, to the southwest corner of the lot in the twenty-third northern, and fifth western ranges; then north to the south line of great lot number four; then westerly on said line, to the corner of lots number nine hundred and four, and nine hundred and forty-two, of great lot number four; then northerly on the line between lots number nine hundred and four, and nine hundred and forty-two, to the southerly line of lot number nine hundred and five; then westerly along said line to the most westerly corner of said lot number nine hundred and five; then northerly on the line between lots number nine hundred, and nine hundred and five, and the same course continued to the most westerly corner of lot number nine

TITLE 1. hundred and eight; then westerly on the line between lots number eight hundred and ninety-seven, and eight hundred and ninety-eight, and the same course continued to the most westerly corner of lot number eight hundred and fifty; then along the line of lots to the bounds of the county of St. Lawrence, at the northeast corner of lot number eight hundred and thirty-four; then northwesterly along the westerly bounds of the county of St. Lawrence, to the north bounds of this state; then westerly and southerly along the said north bounds, to a point west from the place of beginning, and then east to the place of beginning.

Otsego. 35. The county of Otsego shall contain all that part of this state, bounded southerly, by the county of Delaware: easterly, by the county of Schoharie: westerly, by the middle of the westerly branch of the Unadilla river: northerly, by a line beginning at the Unadilla river, in the south bounds of a tract formerly granted to William Bayard and others, called the Freemasons' patent, and running thence easterly along the south bounds of said tract, to the west bounds of the tract called Cochran's patent; then south along said bounds to the southwest corner thereof; then easterly along the south bounds of said patent, and the same line continued to the southeast corner of lot number seventy-three, in the tract granted to David Schuyler and others; then northerly in a straight line to the northeast corner of lot number seventy-one in the same tract; then easterly along the southerly bounds of the tract granted to Rudolph Staley and others, and the southerly bounds of a tract granted to Theobald Young, to a line run from the Little Falls in the Mohawk river, to the mouth of a creek on which the mills formerly of Richard Carey were erected; then northerly along said line until the same is intersected by a western continuation of the north bounds of a tract called Springfield; then easterly along such continuation, and along the north bounds of said tract, to the northeast corner thereof; and then easterly to the northwest corner of the county of Schoharie.

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Chenango. 36. The county of Chenango shall contain all that part of this state, bounded as follows: beginning at the southeast corner of township number eighteen of the twenty townships, and running thence westerly along the south bounds thereof, to the east bounds of township number nine; then northerly along the same, to the southeast corner of township number four; then along the south bounds of townships number four, five, and six, and the same continued to the military tract; then southerly along the east bounds of the military tract, to the southeast corner thereof; then with a straight line to the confluence of the Troughnioga and Chenango rivers, and to the east bank of the last mentioned river; then up said river along the eastern bank thereof, to the northwest corner of a tract granted to John Jay and John Rutherford; then along the north bounds thereof, and the same line continued, until it meets the west line of the township called Clinton, in a map made by the surveyor-general of this state; then southerly along the same to the southwest corner thereof; then east along the south bounds thereof, to the county of Delaware; then northerly along the counties of Delaware and Otsego, to the place of beginning.¹

¹ Boundary between Chenango and Broome altered by L. 1840, ch. 180. See next note.

37. The county of Broome shall contain all that part of this state, bounded on the west, by a line beginning in the south bounds of this state, where a continuation of the easterly bounds of Cox's patent strikes the same, and running thence north along the same to the southeast corner of said patent; then along the east bounds thereof to the south bounds of the Boston purchase; then along the same west, to the southeast corner of lot number one hundred and seventeen in the township of Nanticoke; then along the east bounds thereof north to the northeast corner of said lot number one hundred and seventeen; then along the north bounds thereof west to the southwest corner of lot number one hundred and twenty-one; then north along the line of lots to the northwest corner of lot number one hundred and seventy-one; then east along the line of lots to the southwest corner of lot number twelve, of the grand division of the said Boston purchase; then following a line constituted by the west bounds of the following lots and lines, at right angles to the same, connecting them, namely: number twelve, twenty-nine, fifty-two, sixty-nine, ninety-two, one hundred and nine, one hundred and thirty-two, one hundred and forty-nine, one hundred and seventy-two, one hundred and eighty-nine, two hundred and twelve, two hundred and thirty, two hundred and fifty-one, two hundred and seventy, two hundred and ninety-one, three hundred and ten, three hundred and thirty, three hundred and fifty-one, three hundred and seventy, three hundred and ninety-one, four hundred and ten, four hundred and thirty-two, four hundred and forty-nine, four hundred and seventy-two, four hundred and eighty-nine, five hundred and thirteen, five hundred and thirty-eight, five hundred and fifty-three, and five hundred and sixty-eight: northerly and easterly by a line beginning at the northwest corner of lot number five hundred and sixty-eight, and running thence east along the south bounds of the north tier of short or square lots, so called, of said Boston purchase, to the Tioughnioga branch of the Susquehanna river; then along the same to the south bounds of the township of Cincinnatus; then along the same east, to the county of Chenango; then southerly and easterly along the county of Chenango, to the county of Delaware; and then southerly along the county of Delaware, to the south bounds of the state: and on the south, by the south bounds of the state.¹

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Broome.

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38. The county of Cortland shall contain all that part of this state: bounded as follows: east by the east bounds of the military tract: north, by a line beginning at the southeast corner of lot number fifty, in the township of Fabius, and running thence west along the line of lots to the southeast corner of lot number fifty, in the township of Tully; and then west along the line of lots to the west bounds of the township of Tully: westerly, by the west bounds of the township of Tully, Homer, and Virgil: and southerly, by the counties of Tioga and Broome.

Cortland.

39. The county of Tompkins shall contain all that part of this state, bounded as follows: on the north, by a line beginning at the northeast corner of lot number sixty, in the township of Locke, and

Tompkins.

¹ Part of town of Greene, from Chenango county, annexed to town of Barker, Broome county. See L. 1840, ch. 180.

TITLE 1. running thence west along the line of lots to the northwest corner of lot number fifty-one in said township; then north along the west bounds of said township, to the northeast corner of lot number fifty, in the township of Milton; then west along the line of lots to the east bounds of lot number forty-one, in said township; then along the same north, to the northeast corner of said lot; then west along the north bounds thereof, and the same continued to the middle of the Cayuga lake; then southerly along said middle to a point opposite the southeast corner of the township of Ovid; then with a straight line to the said southeast corner; then westerly along the south bounds of said township, and the same continued to the west shore of the Seneca lake: westerly and southerly, by the west shore of said lake, and the county of Tioga: and easterly, by the counties of Tioga and Cortland.¹

Tioga.

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40. The county of Tioga shall contain all that part of this state, bounded as follows: beginning in the south bounds of this state, at the commencement of the pre-emption line, as established by law, and running thence north along the same, till it is intersected by a western continuation of the south bounds of the military tract; then along said continuation to the southwest corner of the military tract; then east along the south bounds of the military tract, to where the same is intersected by a line drawn north and south from the middle of the bridge that crosses Balding's mill creek, so called; then south along said line, until the same is intersected by a line drawn from the middle of the east bounds of the southeast section of township number seven, westerly and parallel with the south line of said township, and the same continued; then easterly along the said last mentioned line, to the west bounds of township number ten; then southerly along the same, to the north bounds of the second tier of lots in the southwest section of township number ten; then easterly along the same to the section line of number ten; then along the same northerly, to the southwest corner of the northeast section of township number ten; then easterly parallel with the south bounds of township number ten, to the west bounds of township number eleven; then southerly along the same, sixty chains; then easterly parallel with the south bounds of township number eleven, to the west bounds of section number six, on Owego creek; then southerly along the said west bounds, to the southwest corner thereof; and then easterly along the south bounds of the last mentioned section, to the Owego creek; then northerly up said creek, to the southwest corner of lot number five hundred and eighty-one, of the grand division of the Boston purchase; then easterly on the south line of the north tier of the short or square lots, so called, to the southeast corner of lot number five hundred and ninety-two, of said purchase, being the northwest corner of the county of Broome; then southerly along the west bounds of the county of Broome, to the south bounds of the state; and then westerly along the same to the place of beginning.²

Steuben.

41. The county of Steuben shall contain all that part of this state,

¹ Part of town of Newfield, from Tompkins county, annexed to town of Catharine, in Chemung county. See L. 1853, ch. 327. Boundaries also altered by erection of Schuyler county, etc. See L. 1854, ch. 386, *post*.

² Boundaries altered by erection of Chemung county. See L. 1836, ch. 77. *post*.

bounded as follows: southerly, by the south bounds of the state: TITLE 1.
 east, by the counties of Tioga and Tompkins: north, by the counties
 of Yates, Ontario and Livingston: and westerly, by the west line of
 the sixth range of townships in Phelps and Gorham's purchase.¹

42. The county of Onondaga shall contain all that part of this Onondaga.
 state, bounded as follows: beginning in the east bounds of the mili-
 tary tract, at the northeast corner of lot number sixty, in the town-
 ship of Fabius, and running thence northerly along the east bounds
 of said tract, to the Oneida lake; then northwesterly along the
 Oneida lake, to the place where the Onondaga or Oswego river issues
 therefrom; then northerly, southerly and northwesterly along the
 said river as the same winds and turns, to the southeast corner of lot
 number thirty-three, in the township of Lysander; then westerly along
 the south line of said lot and the lots in the same range, to the west line
 of said township; then southerly along the west line of said township,
 to the Cross lake; then west to the middle of said lake; then through
 the middle of said lake, and the middle of the Seneca river, to a
 continuation of the west line of the township of Camillus; then
 along the same, and along the west line of the said township, to the
 southwest corner of the said township of Camillus: then easterly
 along the south bounds of said township, to the northwest corner of
 the township of Marcellus; then along the westerly and southerly
 lines of the township of Marcellus, to the Skeneateles lake; then
 southeasterly along the shore of the same, to the northwest corner
 of the county of Cortland; and then easterly along the north bounds
 of said county, to the place of beginning. [15]
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43. The county of Cayuga shall contain all that part of this state, Cayuga.
 bounded as follows: beginning at the northeast corner of the county
 of Tompkins, and running thence westerly along the north bounds
 of said county, to the middle of the Cayuga Lake; then down the
 middle of said lake, to the outlet thereof; then down the said outlet,
 to the west line of the township of Brutus; then north along the west
 lines of the townships of Brutus and Cato, and the same line con-
 tinued to the north bounds of this state; then northeasterly along
 the same, to the county of Oswego; and then southerly along the
 westerly bounds of the counties of Oswego, Onondaga and Cortland,
 to the place of beginning.

44. The county of Seneca shall contain all that part of this state, Seneca.
 bounded on the north, by the county of Wayne: on the east, by the
 county of Cayuga: on the south, by the county of Tompkins: and
 on the west, by the west shore of the Seneca lake, and from the
 north end of said lake by the pre-emption line, as established by
 law.

45. The county of Ontario shall contain all that part of this state, Ontario.
 bounded as follows: beginning at the northeast corner of the county
 of Yates, and running thence along the bounds of the said county, to
 the southwest corner thereof; then westerly along the north line of
 township number six in the fourth and fifth ranges of Phelps and
 Gorham's purchase, to the southeast corner of the county of Living-
 ston; then along the bounds of the said county, to the south bounds

¹ Boundaries altered by erection of Schuyler county, etc. See L. 1834, ch. 386, *post*.

TITLE 1. of the county of Monroe; then along the bounds of the said county, to the southwest corner of the county of Wayne; then along the south bounds of the said county, to the northwest corner of the county of Seneca; and then southerly along the west bounds of the said county of Seneca, to the place of beginning.

Yates. 46. The county of Yates shall contain all that part of this state, bounded as follows: beginning on the west margin of the Seneca lake, at the termination of an east and west line between lots number seven and eight, of the tract lying between the new pre-emption line and the Seneca lake, and running thence west along said line to the new pre-emption line; then along the same north to the northeast corner of lot number fifteen of the tract between the old and new pre-emption lines; then west along the north bounds of lot number fifteen to the old pre-emption line; then northerly along the same to the northeast corner of township number five, in the first range of townships in Phelps and Gorham's purchase; then west along the north bounds of said township to the southeast corner of township number six of the second range; then along the east bounds thereof north, to the Crooked lake; then northwest to the middle of the east arm of said lake, then southwesterly and northerly through the middle thereof and of the west arm of said lake to the north bounds of township number six of the second range; then west along the same and the north bounds of township number six of the third range to the southeast corner of township number seven of the fourth range; then north along the east bounds of said township to the southwest corner of township number eight of the third range; thence east along the south bounds of said township to the middle of the Canandaigua lake; then northerly along said middle to the north bounds of said township; then east along the same and the north bounds of township number eight in the second and first ranges and the same continued to the Seneca lake; then along the west margin thereof to the place of beginning.

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Wayne. 47. The county of Wayne shall contain all that part of this state; bounded as follows: beginning at the southeast corner of the township of Galen, and running thence north along the west bounds of the county of Cayuga to the north bounds of this state; then westerly along the said north bounds until intersected by a continuation of the west bounds of the third range of townships in Phelps and Gorham's purchase; then along such continuation and the said bounds south to the southwest corner of township number twelve of the third range; then east along the south bounds of said township to the southeast corner thereof; then north along the east bounds thereof to the southwest corner of township number twelve of the second range; then east along the south bounds thereof to the northeast corner of township number eleven of the second range; then along the east bounds thereof south, until intersected by a continuation of the south bounds of the township of Galen; then east along said continuation and bounds to the place of beginning.

Livingston. 48. The county of Livingston shall contain all that part of this state, bounded as follows: beginning in the south bounds of township number seven, fifth range of Phelps and Gorham's purchase, at a point five and a half miles east of the southwest corner thereof,

and running thence west along the south bounds of said township and of township number seven of the sixth range to the northwest quarter of township number six of the sixth range; then along the east, south and west bounds of said quarter to the northeast corner of township number six of the seventh range; then along the north bounds of said township west, to the southwest corner of township number seven of the seventh range; then along the west bounds thereof north, till intersected by a continuation of the north bounds of township number seven in the first range of the Holland Company's purchase; then west along said continuation to the middle of the Genesee river; then down the said middle to a continuation of the east bounds of the Ogden tract; then north along said continuation and said bounds, and the same continued north, to the division line between lots number nineteen and twenty of the forty thousand acre tract; then east along said division line to the southeast corner of lot number twenty-seven of said tract; then north along the east bounds of lots number twenty-seven, twenty-six and twenty-five to township number one in the second range of Phelps and Gorham's purchase on the west side of Genesee river; then along the south bounds thereof to the southwest corner of lot number one hundred and seventeen, in said township; then north along the line of lots so far as that a line drawn due east will strike one mile north of the house now or late of Peter Bowen; then east along said line to the middle of Genesee river; then along the said middle to the northwest corner of township number ten in the seventh range of townships in Phelps and Gorham's purchase; then easterly to the west bounds of township number ten in the sixth range of said purchase; then northerly to the north bounds of said township; then easterly along the north bounds thereof, and of township number ten in the fifth range to the middle of the Huneoye creek; then along said middle to the south bounds of said last mentioned township; then west on the division line between townships number nine and ten to the northeast corner of a tract called the Oblong tract, lying east of township number nine in the sixth range; then south along the said tract to the north bounds of township number eight in the fifth range; then west along the north bounds of said township and of township number eight in the sixth range to the east shore of the Hemlock lake; then southerly and westerly along said lake to the west bounds of township number eight of the fifth range; then along the same, south, to the southwest corner thereof; then along the south bounds thereof, east five and a half miles; then with a line parallel to the east bounds of township number seven in the fifth range, south to the place of beginning.

TITLE 1.[17]
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49. The county of Monroe shall contain all that part of this state, bounded as follows: beginning in the north bounds of the state, at a point due north of the northwest corner of the tract called the Triangle, and running thence south to the said northwest corner; then south along the west bounds of said tract, to the north bounds of township number two in said Triangle; then east along the north bounds of said township to the east bounds of said Triangle; then southwesterly along the same to the north bounds of township number one in the second range of Phelps and Gorham's

Monroe.

TITLE 1. purchase on the west side of Genesee river; then along the north bounds thereof, to the northwest corner of lot number fifty-four of said township; then southerly along the west bounds of lots number fifty-four, sixty, and sixty-six, and the same course continued to the county of Livingston; then along the bounds of said county to the middle of Huneoye creek; then along the south bounds of township number eleven in the fifth range of Phelps and Gorham's purchase to the southeast corner thereof; then north along the east bounds thereof, to the northeast corner thereof; then east along the north bounds of township number eleven in the fourth range to the northeast corner thereof; then north along the dividing line between the third and fourth ranges of said purchase, and the same continued to the north bounds of the state; and then westerly along the same to the place of beginning.

Genesee. 50. The county of Genesee shall contain all that part of this state, bounded easterly, by the counties of Monroe, Livingston and Allegheny: northerly, by the south bounds of the counties of Orleans and Monroe: westerly, by a meridian line between the fourth and fifth ranges of townships of the Holland Company's purchase: and southerly, by the north bounds of township number six, in the third and fourth ranges, and the north bounds of township number seven, in the first and second ranges of said township, and the said northerly bounds continued easterly to the southwest corner of the county of Livingston.¹

Orleans. 51. The county of Orleans shall contain all that part of this state, bounded easterly, by the county of Monroe: northerly, by the north bounds of the state: westerly, by a meridian line between the fourth and fifth ranges of townships of the Holland Company's purchase, and said line continued north to the bounds of the state; and southerly, by the division line between the thirteenth and fourteenth townships in said purchase, continued east to the transit line; then along said line to the northwest corner of lot number eighty-five, in the tract called the Connecticut tract; and then east along the line of lots to the west bounds of the county of Monroe.

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Niagara. 52. The county of Niagara shall contain all that part of this state, bounded easterly, by the counties of Orleans and Genesee: northerly and westerly, by the bounds of the state: and southerly, by the bounds of the state, the middle of the Niagara river on the northerly side of Grand island, and the Tonnewanta creek.

Erie. 53. The county of Erie shall contain all that part of this state, bounded easterly, by the county of Genesee: northerly, by the county of Niagara: westerly, by the bounds of the state: and southerly, by the Cattaraugus creek, and a line running northwest from its mouth to the bounds of the state.

Allegheny. 54. The county of Allegheny shall contain all that part of this state, bounded easterly, by the county of Steuben: northerly by the counties of Livingston and Genesee: westerly, by a meridian line between the second and third ranges of townships of the Holland Company's purchase: and southerly, by the south bounds of the state.²

¹ Boundaries altered by erection of Wyoming county. See L. 1841, ch. 196, post.

² Part of town of Portage, and towns of Eagle and Pike, from this county, annexed to Wyoming. See L. 1846, ch. 61, post.

55. The county of Cattaraugus shall contain all that part of this state, bounded easterly, by the county of Allegany: northerly, by the counties of Genesee and Erie: westerly, by a meridian line between the ninth and tenth ranges of townships of the Holland Company's purchase: and southerly, by the south bounds of the state.

TITLE 1.
Cattaraugus.

56. The county of Chautauque shall contain all that part of this state, bounded easterly, by the county of Cattaraugus: northerly, southerly and westerly, by the county of Erie and the bounds of this state.

Chautauque.

§ 3. All lines which, in the foregoing bounds, are described by courses indicated by the magnetic needle, are respectively to be taken as the magnetic needle pointed at the several times when such lines were originally established.

Lines how to be taken.

§ 4. None of the bounds or lines assigned for the limits of any of the said counties, shall be construed to affect the right or title of any person or body politic, or to confirm the bounds or right of any patent whatsoever.

Private rights not to be affected.

[2 R. L., 119, § 2.]

§ 5. Whenever two counties are separated from each other by a river or creek, the middle of the channel of such river or creek shall be the division line between them, unless herein before otherwise provided.

Counties separated by a river, &c.

[2 R. L., 44, § 2.]

§ 6. Whenever the boundary line between two counties crosses an island, the whole of such island shall be deemed to be within the county in which the greater part of it lies, unless otherwise directed.

Islands crossed by boundary lines.

[1b.]

§ 7. The counties of Kings, Richmond and New-York, shall, for the purpose of serving all process, civil or criminal, have concurrent jurisdiction on the waters in the counties of Kings and Richmond, lying south of the bounds of the county of New-York.

Jurisdiction over certain waters.

[Laws of 1824, p. 359, § 2.]

§ 8. All process issuing to officers of either of the counties bordering on the Seneca Lake, may be served upon the waters of the said lake by any officer or person charged with the service thereof; and the said counties shall, for all the purposes of civil and criminal process, have concurrent jurisdiction on the said waters.

[19] Vol. 3. Seneca lake.

[Laws of 1824, p. 21, chap. 26.]

L. 1836, Chap. 77—An act to erect a new county from a part of Tioga county, by the name of Chemung, and for other purposes.

County of Chemung erected. SECTION 1. All that part of the county of Tioga lying and being on the west side of a line beginning on the east bank of the Chemung river on the line between the states of New York and Pennsylvania; thence up the said river along the banks thereof at low-water mark to a sulphur spring, near the centre of the lower narrows on said river; thence in a direct line northeasterly, until it strikes the southeast corner of lot number one hundred and fifty-three; thence north along the east line or boundary of lots number one

hundred and fifty-three, two hundred and one, two hundred and two, and two hundred and three, to the south line of the town of Erin; thence east along the said south line to the Cayuta creek; thence up the centre of said creek to the south line of the town of Cayuta; thence east along said line to the east line of the said town of Cayuta; thence north along said line to the county of Tompkins, shall, from and after the passing of this act, be a separate and distinct county of the state of New York, and be called Chemung; and the freeholders and inhabitants thereof shall possess and enjoy all the rights and immunities which the freeholders and inhabitants of the several counties of this state are by law entitled to possess and enjoy.¹

Part of the town of Chemung annexed to Barton. § 2. All those parts of the town of Chemung which lie east of the line in the preceding section mentioned, shall from and after the passing of this act, be annexed to, and form a part of the town of Barton, in the county of Tioga.

Town officers. § 3. The town officers residing in that part of the town of Chemung, which by the foregoing section is annexed to the town of Barton, shall continue to be officers of the said town of Chemung until the next election for town officers therein.

Courts in Chemung county. § 4. There shall be a court of common pleas and court of general sessions of the peace held at the court-house at Elmira, in and for the county of Chemung, four terms in each year, as follows: the first term shall begin on the second Tuesday of July next; the second term on the second Tuesday of October thereafter; the third term on the second Tuesday of January thereafter; and the fourth term on the second Tuesday of April thereafter; and on the second Tuesdays of July, October, January, and April thereafter.

Courts in Tioga county. § 5. From and after the passing of this act the courts of common pleas and general sessions of the peace, in and for the county of Tioga, shall be held at the court-house at Owego, on the third Tuesdays of July, October, January, and April thereafter.

Terms. § 6. Each of the terms of the said courts in the said counties of Chemung and Tioga may continue to be held until the second Saturday following the said Tuesdays, inclusive.

Saving clause. § 7. Nothing in this act contained shall be construed to affect any suit or action in any court already commenced, or to be commenced before this act takes effect; or to affect any criminal or other proceedings then pending therein, but all such civil, criminal or other proceedings shall be prosecuted to judgment and execution therein, the same as if this act had not been passed.

Court-house and jail in Chemung county. § 8. The court-house and jail now erected in the village of Elmira, and the jail liberties thereof as now fixed by law, shall be and remain the court-house, jail, and jail liberties of the said county of Chemung.

[Sections 9-11, as to erection of clerk's office, are omitted as temporary.]

County records. § 12. The books, records and papers appertaining to the county of Tioga, shall be and remain the property of the said county of Tioga; and so many and such portions thereof as concern the said county of Chemung, and the real property therein, shall be transcribed and copied into suitable books to be provided for the purpose, at the mutual expense of the said counties of Chemung and Tioga, in the manner hereinafter provided.

[Sections 13-22 are omitted as temporary.]

Copies of records. § 23. When the said books, records and papers shall have been transcribed and copied as aforesaid, the person or persons making the same, shall certify on oath before the clerk of the county of Chemung that they are true copies of all the books, records and papers remaining in the clerk's office of Tioga, relating to lands in said county of Chemung, according to the best of his or their

¹ Part of town of Newfield, from Tompkins county, annexed to town of Catharine, Chemung county. See L. 1853, ch. 377.

knowledge and belief; and the said copies when so completed and certified as aforesaid, shall be deposited in the clerk's office of the said county of Chemung, which said copies or exemplifications or certified copies thereof shall thenceforth be received and considered in all courts and places as evidence, and have the same force and effect as the original records or certified copies or exemplifications thereof could or would have therein.

Members of Assembly. § 24. The said county of Chemung shall be entitled to elect one member of Assembly in the same manner as the other counties of this State are by law entitled to elect; and the county of Tioga shall in like manner be entitled to elect one member of Assembly.

[Sections 25 and 26, as to holding courts, etc., are omitted as temporary or obsolete.]

Annual meetings of Supervisors. § 27. The annual meetings of the board of supervisors of the county of Chemung, shall be held at the court-house in the village of Elmira; and the annual meetings of the board of supervisors of the county of Tioga, shall be held at the court-house in the village of Owego.

Sheriff and clerk to hold until expiration of term. § 28. Nothing in this act contained shall affect the rights, powers, privileges or jurisdiction of the sheriff and clerk of the present county of Tioga, but the same shall remain in all respects as if this act had not been passed; and the said sheriff and clerk shall perform the duties appertaining to their respective offices in the courts, and over the territory of both counties, until the expiration of the term for which they were severally elected.

[Sections 29-31 are omitted as temporary or obsolete.]

L. 1838, Chap. 332—An act to erect a new county from a part of the county of Montgomery, by the name of Fulton, and for other purposes.

County of Fulton erected; Montgomery county. SECTION 1. All that part of the county of Montgomery lying and being on the north side of a line beginning at the northwest corner of the first tier of lots in Klock and Nellis's patent, in the town of Oppenheim, on the west line of the county of Montgomery, and running thence through the towns of Oppenheim and Ephratah, on a straight line to the centre of the New turnpike (so called), where said turnpike crosses the highway leading from the village of Ephratah to Palatine bridge; thence easterly on a straight line to the southeast corner of the town of Broadalbin, in the said county of Montgomery, shall, from and after the passing of this act, be a separate and distinct county of the state of New York, and be known and called by the name of Fulton, and entitled to and possessed of all the benefits, rights, privileges and immunities, and subject to the same duties as the other counties of this state; and the freeholders and inhabitants thereof shall possess and enjoy all the rights and immunities which the freeholders and inhabitants of the several counties of this state are by law entitled to possess and enjoy. All the remaining part of the present county of Montgomery shall be and remain a separate and distinct county by the name of Montgomery.

Town of St. Johnsville erected. § 2. All that part of the town of Oppenheim which lies south of the aforesaid line, shall, from and after the passing of this act, be a separate and distinct town of the said county of Montgomery, by the name of St. Johnsville; and the freeholders and inhabitants thereof shall possess and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of the several towns in this state are entitled by law to possess and enjoy.

[Remainder of the section is omitted as temporary.]

Oppenheim to remain. § 2. All the remaining part of said town of Oppenheim shall remain a separate town by the name of Oppenheim.

[Remainder of the section, and sec. 4, are omitted as temporary.]

Town of Perth erected. § 5. All that part of the town of Amsterdam which lies north of the aforesaid line, shall, from and after the passing of this act, be a separate and distinct town of the said county of Fulton, by the name of Perth, and the freeholders and inhabitants thereof shall possess and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of the several towns in this state are entitled by law to possess and enjoy.

[Remainder of the section is omitted as temporary.]

Amsterdam to remain. § 6. All the remaining part of said town of Amsterdam shall remain a separate town by the name of Amsterdam.

[Remainder of the section, and sec. 7, are omitted as temporary.]

Parts of Ephratah, Palatine and Mohawk how attached. § 8. All that part of the town of Ephratah lying south of the said line specified in the first section of this act, shall be attached to and form a part of the town of Palatine; all that part of the town of Palatine lying north of the said line specified in the first section of this act, shall be attached to and form a part of the town of Ephratah; and all that part of the town of Mohawk lying north of the said line specified in the first section of this act, shall be attached to and form a part of the town of Johnstown, and if any portion of the town of Johnstown lies south of the said line, it shall be attached to and form a part of the town of Mohawk.

Courts in Fulton county. § 9. There shall be a court of common pleas and a court of general sessions of the peace, held at the old court-house in the village of Johnstown, in and for the said county of Fulton, four terms in each year, as follows: The first term shall commence on the third Monday of January, one thousand eight hundred and thirty-nine; the second term on the first Monday of April thereafter; the third term on the first Monday of August thereafter; and the fourth term on the first Monday in October thereafter; and on the same day in each year thereafter.

In Montgomery county. § 10. From and after the passage of this act, the court of common pleas and general sessions of the peace, in and for the county of Montgomery, shall be held at the court-house in the village of Fonda, on the second Monday of June, September, December and March, in each year.

Terms. § 11. Each of the terms of the said courts in the said counties of Montgomery and Fulton, may continue to be held until and including the second Saturday after its commencement; there shall be no grand jury at the August or October terms of said courts; nor shall any issues of fact be tried; nor shall any jury attend the August terms of said courts in the county of Fulton.

Books, records and papers. § 12. The books, records and papers appertaining to the county of Montgomery, shall be and remain the property of the said county of Montgomery; so many and such portions thereof as concern the said county of Fulton, and the real property therein, as by the commissioners hereinafter named shall be deemed important, shall be transcribed and copied into suitable books to be provided for the purpose, at the mutual expense of the said counties, in the manner hereinafter provided. [*Thus amended by L. 1840, ch. 356.*]

[Sections 13-17 are omitted as temporary.]

Meeting in Fulton. § 18. The annual meeting of the board of supervisors of the said county of Fulton, shall be held on the Tuesday next after the general election in each year, at the court-house in said county.

[Section 19 is omitted as temporary.]

Money to be raised for copying records. § 20. The supervisors of the said counties of Montgomery and Fulton, at their next annual meeting in their respective counties, shall assess, levy and collect in their several counties, such sum or sums of money as shall be necessary to transcribe and copy the books, papers and records aforesaid; and when the said books, records and papers shall have been transcribed and copied as aforesaid, the person or persons making the same shall certify on oath before the clerk of the county of Fulton, that they are true copies

of all the books, records and papers remaining in the clerk's office of the county of Montgomery, relating to the lands in said county of Fulton, according to the best of his or their knowledge and belief; and the said copies when so completed, and certified as aforesaid, shall be deposited in the clerk's office of the said county of Fulton, which said copies, or exemplifications, or sworn or certified copies thereof, shall thenceforth be received, accredited and considered in all courts and places as evidence, and have the same force and effect as the original records, or sworn or certified copies or exemplifications thereof could or would have.

Members of assembly; congress. § 21. The said county of Montgomery shall be entitled to elect two members of assembly, and the said county of Fulton and the county of Hamilton shall be entitled to elect one member of assembly, in the same manner as the other counties of this state are by law entitled to elect members of assembly; and the said counties of Montgomery, Fulton and Hamilton shall compose the fifteenth congressional district of this state.

Court-house, jail and clerk's office in Fulton. § 22. The supervisors of the said county of Fulton shall, at their said special meeting, be authorized to purchase the old court-house, jail and clerk's office, in the village of Johnstown, formerly used as the court-house, jail and clerk's office of the county of Montgomery, and to raise, assess, levy and collect, in the same manner as other county taxes are by law assessed, levied and collected, a sum of money sufficient to pay for the same, and to make any repairs or improvements to the said buildings that the said board of supervisors shall deem necessary.

[Sections 23-26 are omitted as temporary or obsolete.]

Court-house, jail and clerk's office. § 27. The said court-house, jail and clerk's office when so purchased by the board of supervisors of the said county of Fulton, shall be the court-house, jail and clerk's office of the said county of Fulton.

[Section 28 is omitted as temporary.]

L. 1840, Chap. 356—An act to amend the act entitled "An act to erect a new county from a part of the county of Montgomery, by the name of Fulton, and for other purposes," passed April 18, 1838.

[Section 1 amends L. 1838, ch. 332, § 12.]

Certificate of transcriber. SECTION 2. The certificate required by the twentieth section of the act hereby amended, to be made on oath by the person or persons employed to copy and transcribe the books, records and papers aforesaid, shall be made in reference to the said act as now amended.

L. 1841, Chap. 196—An act to divide the county of Genesee, and to erect the county of Wyoming.

County of Wyoming erected; Genesee county to remain. SECTION 1. All that part of the county of Genesee lying and being on the south side of a line beginning at the northwest corner of the town of Bennington, in the county aforesaid, and running thence east on the north line of the towns of Bennington, Attica and Middlebury, to the west line of the town of Covington; thence south on the east line of Middlebury to the southwest corner of the Craigie tract; thence east on the south line of said Craigie tract, and on the south bounds of the forty thousand acre tract to the east line of the said town of Covington, shall be a separate and distinct county of the state of New York, and be known by the name of Wyoming, and entitled to and possessed of all the benefits, rights, privileges and immunities, and subject to the same duties as the other counties of this state, and the freeholders and inhabitants thereof shall possess and enjoy all the rights and immunities which the freeholders and inhabitants of

the several counties of this state are by law entitled to possess and enjoy. All the remaining part of the present county of Genesee shall be and remain a separate and distinct county by the name of Genesee.¹

Town of Pavillion erected. § 2. All that part of the town of Covington which lies north of the aforesaid line, shall be and remain, from and after the passage of this act, a separate and distinct town of the said county of Genesee, by the name of Pavilion, and the freeholders and inhabitants thereof shall possess and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of the several towns of this state are entitled by law to possess and enjoy.

[Remainder of the section is omitted as temporary.]

Covington to remain. § 3. All the remaining part of the said town of Covington, shall remain a separate town by the name of Covington.

[Remainder of § 3, and § 4, are omitted as temporary.]

Courts in Wyoming county. § 5. There shall be a court of common pleas and a court of general sessions of the peace, held in and for the said county of Wyoming, three terms in each year, as follows: The first term shall commence on the third Monday of June, one thousand eight hundred and forty-one; the second term on the third Monday of October thereafter; and the third term on the third Monday of February thereafter, and on the same day in each year thereafter.

[Remainder of the section is omitted as temporary.]

Courts, where to be held in Wyoming county; clerk's office. § 6. The first term of the courts of common pleas and general sessions of the peace in and for said county of Wyoming, shall be held at the public house at East Orangeville, in said county, and all the subsequent terms of the courts of common pleas and general sessions of the peace in and for the said county of Wyoming, shall be held in such place as the judges of the county courts of said county shall, from time to time, direct, until the court-house in the said county shall be erected and so far completed, as to be, in the opinion of the said judges, convenient to hold courts therein; and the courts of common pleas and general sessions of the peace shall thenceforth be holden in and for said county in said court-house. The office of the clerk of said county shall be kept in such place as the judges of the county courts of said county shall direct, until the erection and completion of a suitable clerk's office for said county as hereinafter provided.

[Remainder of § 6, and §§ 7-9, are omitted as obsolete.]

Special meeting of supervisors of the present county of Genesee. § 10. There shall be a meeting of the board of supervisors of the present county of Genesee on the second Tuesday of June next, at the court-house in the village of Batavia, to transact such business as may be necessary in consequence of the passage of this act, and it shall be the duty of the clerk of said county, upon receiving due notice of the passage of this act, to notify each supervisor in said county of the same, and of the time and place of holding such meeting.

To be formed into distinct boards for each county; supervisors of Wyoming to appoint treasurer and building commissioners. § 11. The said supervisors, when so convened as aforesaid, shall have power to form themselves into two separate and distinct boards, those residing in the county of Genesee to be considered as the board of supervisors in and for the said county of Genesee, and those residing in the county of Wyoming to be considered as the board of supervisors in and for the county of Wyoming; and when so formed and organized, the acts of the said respective boards of supervisors, or a majority of them, shall have the same force and effect in their respective counties as if done at a regular annual meeting of the same. And the board of supervisors of the county of Wyoming, or a majority of them, are hereby authorized to appoint, at the special meeting aforesaid, a treasurer for said county and three commissioners, whose duty it shall be to superintend the building of the court-house, clerk's office and jail in said county; and it shall be their duty, at such meeting, to prepare a list of persons to serve as grand jurors

¹ Part of town of Portage, and towns of Eagle and Pike, from Allegany, annexed to this county. See L. 1846, ch. 51, *post*.

for said county of Wyoming, in the manner provided by title four, article one, chapter two, part four of the Revised Statutes.

Annual meetings, when to be held. § 12. The annual meeting of the board of supervisors of the said county of Wyoming, shall be held on the Tuesday next after the general election in each year, at the place where the courts of common pleas and general sessions of the peace shall be held.

Duty of the county treasurers. § 13. It shall be the duty of the treasurer of the county of Genesee and of the treasurer of the county of Wyoming, so to be appointed as aforesaid, to meet with the said supervisors, at their said special meetings; and the said supervisors and treasurers when so assembled in joint board, shall apportion and divide all debts owing by the said county of Genesee, or to said county, and shall make such arrangements in relation to the poor-house property and the support of the county poor, as shall be just and equitable.

Two members of assembly to be elected by each county. § 14. The said county of Genesee shall be entitled to elect two members of assembly, and the said county of Wyoming shall be entitled to elect two members of assembly, in the same manner as other counties of this State are by law entitled to elect members of assembly; and the said counties of Genesee and Wyoming shall compose the twenty-ninth congressional district.

[Sections 15-17 are omitted as temporary.]

Notices, where to be put up in Wyoming county. § 18. All notices required by law to be put on the outer door of any court-house, may, in the said county of Wyoming, be put up on the outer door of the public house at East-Orangeville until a court-house shall be erected; and in case the said county courts shall hereafter be held at any other house or place, then such notices shall be put on the outer door of said house or place where the said county courts were last held.

Court-house, jail and clerk's office, where to be located and erected. § 19. The court-house, clerk's office and jail of the county of Wyoming shall be erected at such place in said county as shall be designated by the commissioners appointed for that purpose; if a suitable and convenient lot for said court-house, clerk's office and jail shall have been first conveyed to the supervisors of said county and their successors forever.

[Remainder of § 19, and §§ 20-26, are omitted as temporary.]

Members of assembly and commissioners of loans. § 27. Nothing contained in this act shall affect the members of assembly from the county of Genesee now elected, nor the rights, powers and duties of commissioners of loans of the said county.

L. 1846, Chap. 51 — An act to annex the towns of Eagle, Pike, and a part of Portage to the county of Wyoming.

Territory annexed to Wyoming county. SECTION 1. The towns of Eagle, Pike, and all that part of the town of Portage, in the county of Allegany, lying on the west side of the Genesee river, bounded as follows: On the east by the Genesee river; on the south by a line running due easterly from the south line of the town of Pike, until it intersects the Genesee river; and west and north by the original lines of said town, from and after the passage of this act, shall be and the same are hereby annexed to the county of Wyoming.

Town of Genesee Falls erected. § 2. The territory hereby taken from the said town of Portage, and three quarters of a mile of territory, being one tier of lots as surveyed by the Holland Land Company, from the east side of the said town of Pike, shall, from and after the passage of this act, be a separate town, by the name of the town of Genesee Falls.

[Remainder of § 2, and § 3, are omitted as temporary.]

Part of Portage annexed to Hume. § 4. All the residue of the town of Portage lying west of the Genesee river shall, from and after the passage of this act, be annexed to the town of Hume, in the county of Allegany.

Town officers in Eagle and Pike. § 5. All the town officers of the towns of Eagle and Pike, in office when this act shall take effect, and the justices of the peace residing within the territory hereby taken from the said town of Portage, and annexed to the said county of Wyoming, shall remain officers of their towns, with the same tenure and jurisdiction in and for the county of Wyoming which they had or possessed in and for the county of Allegany before the passage of this act.

Duty of the clerk of Allegany county. § 6. The clerk of the county of Allegany shall, immediately after the passage of this act, make and transmit to the clerk of the county of Wyoming, to be filed in his office, a certificate of all the town officers of the towns of Pike and Eagle, and of the justices of the peace residing in the territory hereby taken from the said town of Portage, and annexed to the said county of Wyoming, whose names are filed or kept in his office; which certificate when so filed, or a copy thereof certified by the clerk of Wyoming county, shall be evidence in all cases with the like force and effect as his certificate would be if said officers had been elected or chosen in their respective towns in the county of Wyoming after the passage of this act.

Commissioners of loans to transcribe mortgages and minutes. § 7. The commissioners of loans of Wyoming county shall have access to the books and minutes of the loan commissioners of Allegany county, and shall, within three months after the passage of this act, transcribe and enter, or cause to be transcribed and entered, in a book or books, all mortgages and minutes contained in the first mentioned books, so far as the same shall relate to, and the lands mortgaged may be situated in, the territory hereby annexed to the county of Wyoming at the cost and expense of the said county of Wyoming, to be audited and paid by the board of supervisors of the said county of Wyoming; and said mortgages and minutes, when so transcribed, shall have all the force and validity as if originally entered in the book or books in which they shall be transcribed as aforesaid; and the duties and authority of the commissioners of loans of Wyoming county over said mortgages, shall be the same in all respects as if said mortgage had been originally given in said county of Wyoming.

Saving clause. § 8. The passage of this act shall not be construed so as to interfere in any manner with any crime or misdemeanor committed before the passage of this act, in the territory hereby annexed to the county of Wyoming, or in the prosecution thereof, or with any civil action or proceeding already commenced in any court of law or equity.

L. 1854, Chap. 386—An act to erect a new county, from parts of the counties of Steuben, Chemung and Tompkins, by the name of Schuyler, and to alter the town lines of Bradford and Wayne, in the county of Steuben, to erect the town of Van Etten, and annex parts of the towns of Erin and Catharine to the town of Cayuta, in the county of Chemung.

Bradford and Orange town lines altered. SECTION 1. All that part of the town of Bradford, in the county of Steuben, lying east of the section line, and being the west line of lots numbers thirty-one, thirty-five, forty, one, two, three and four, shall, from and after the passage of this act, be annexed to and form a part of the town of Orange.

Wayne and Tyrone town lines altered. § 2. All that part of the town of Wayne, in the county of Steuben, lying east of the section line, and being the east line of a tier of lots numbered one, respectively, and running across the town of Wayne, shall, from and after the passage of this act, be annexed to and form a part of the town of Tyrone.

Van Etten erected from Erin and Cayuta. § 3. All those parts of the towns of Erin and Cayuta, in the county of Chemung, embracing the following territory: Beginning at the northeast corner of the town of Cayuta, running thence west along the town line between the towns of Newfield and Cayuta to the west line of lot number forty-three; thence south along the west line of lots numbers thirty, twen-

ty-five, twelve and seven, passing through another lot designated as number forty-three, and thence along the southeast line of lot number twenty-nine to the southeast corner thereof; thence southeasterly along the line of lots numbers twenty-eight, twenty-seven, twenty-six, twenty-five and twenty-four, to lot number sixteen; thence along the north line of lot number sixteen to the northeast corner thereof; thence south along the east line of lots number sixteen and seventeen, and a straight continuation of the same to the town line of Chemung; thence east along the town line between the towns of Erin and Chemung to the Cayuta creek, being the southeast corner of the town of Erin; thence north along the town line of Barton to the northwest corner of said town; thence east along the town line between the towns of Barton and Cayuta to the southeast corner of the town of Cayuta; thence north along the east line of the town of Cayuta to the place of beginning, shall, from and after the passage of this act, be erected into a new town to be known and distinguished as the town of Van Etten, and shall remain with and belong to the county of Chemung.

Parts of Erin and Catharine annexed to Cayuta. § 4. All those parts of the towns of Erin and Catharine, in the county of Chemung, embracing the following territory: Beginning in the centre of Cayuta creek, in the southeast line of lot number twenty-nine; thence along the south line of said lot number twenty-nine to the southeast corner thereof; thence along the northwest line of lots numbers twenty-nine, thirty and thirty-one, to the southeast corner of lot number one; thence west along the south line of lots numbers one, two and three, to the southwest corner of said lot number three; thence north along the west line of lot number three to the section line; thence west along the section line to the town of Veteran; thence north along the town line of Veteran and the west line of lots numbers eighty, eighty-six, eighty-seven and eighty-eight, in Catharine, to the section line; thence east along the north line of lots numbers eighty-eight, one, fifty and fifty-one, to the town line of Newfield; thence south along the town line between Newfield and Catharine to the town line of Cayuta, which territory shall, from and after the passage of this act, be annexed to and form a part of the town of Cayuta.

[Section 5 is omitted as temporary.]

County of Schuyler. § 6. All those parts of the counties of Steuben, Chemung and Tompkins which, after this act goes into effect, will be embraced within the towns of Orange, Tyrone, Reading, Catharine (including such part of Newfield as was provided to be attached to Catharine, by chapter three hundred and twenty-seven, Laws of eighteen hundred and fifty-three), Dix, Cayuta and Hector, shall, from and after the passage of this act, be for all purposes, except the election of members of the legislature and justices of the supreme court, and for the holding and jurisdiction of supreme and circuit courts and courts of oyer and terminer, until after the next state census and enumeration, and thereafter for all purposes whatever, a separate and distinct county of the state of New-York, and shall be known or distinguished by the name of Schuyler; and the freeholders and other inhabitants of the said county of Schuyler, for all purposes (except as aforesaid), shall have and enjoy all and every the same rights, powers and privileges as the freeholders and inhabitants of any of the counties of this state are by law entitled to have and enjoy, and not subject to be assessed and taxed by any of the counties from which they are by this act taken.

Elections till after next census. § 7. The electors of the territory embraced within the said new county of Schuyler, until after the next state census or enumeration, shall continue to vote for members of the legislature and justices of the supreme court as electors of the respective counties to which they have heretofore belonged, the same as if this act had not been passed; but for all other purposes they shall vote as electors of the new county of Schuyler, and they shall belong to and form a part of the twenty-seventh congressional district of this state.

Statements of canvass. § 8. A copy of the original statements of all or any elections in any of said towns for members of the legislature and justices of the

supreme court, duly certified pursuant to the provisions of the existing statutes respecting elections for other than militia and town officers, shall be made by the inspectors, and shall be delivered by them, or by one of them to be deputed for that purpose, to one of the assessors of such town within twenty-four hours after the same shall have been subscribed, and such copy of such original statement shall be delivered by such assessor to the board of canvassers of the county from which such town shall have been by this act taken, in order to enable such board of county canvassers of the said last mentioned county to canvass the same; which said statement shall be received by said board of canvassers, and have the same effect as the original statement would have had if delivered by the supervisor of said town, and if said town had not been thus set off to the said county of Schuyler, until the next state census or enumeration.

Books, records and papers to be transcribed. § 9. The books, records and papers belonging to the several clerks' and surrogates' offices of the said counties of Chemung, Steuben and Tompkins shall be and remain the property of the said several counties, but such papers thereof as concern said county of Schuyler and the real property therein shall be transcribed and copied into suitable books, to be provided for the purpose at the expense of the said county of Schuyler.

[Section 10 is omitted as temporary.]

Books and records to be verified. § 11. When the said books, records and papers shall have been transcribed and copied, as aforesaid, the person or persons making the same shall certify on oath, before an officer authorized to administer oaths in said county, that they are true copies of all the records, papers, and such parts of the books remaining in the several clerks' and surrogates' offices of Steuben, Chemung and Tompkins, or some one or more of them, as relate to or concern the real estate of the said county of Schuyler, including the docket of judgments therein, according to the best of his knowledge and belief; and the said copies, when so completed and certified as aforesaid, shall be deposited in the clerk's office in the said county of Schuyler, which said copies, or exemplifications thereof, shall from thenceforth be received, accredited and considered in all courts and places as evidence, and have the same force and effect as the original records or exemplifications thereof could or would have.

County officers. § 12. All the county officers for the county hereby erected, which are authorized by law to be elected, shall be elected at the next general election in this state, and the officers elected thereat for such county shall hold their offices, respectively, for the term as now provided by law for the office to which they are elected, estimating the time from the first day of January next after their election.

[Sections 13 and 14 are omitted as temporary.]

Courts, where to be held. § 15. The county courts and general sessions of the peace, and also the circuit courts and courts of oyer and terminer and general jail delivery, in and for the said county of Schuyler, shall be held at the courthouse to be hereafter erected in said county in pursuance of this act; and until then the said courts, if any, shall be held at such place in the said county as the board of supervisors thereof, or a majority of them, shall appoint in writing under their hands, which appointment shall be entered on the minutes of said board at least thirty days before the time of holding said court, and the clerk of said board shall immediately cause a copy of such appointment to be published in all of the newspapers printed in the said county of Schuyler.

Prisoners, where to be confined. § 16. The prisoners of the said county shall be confined in the jail of the county of Chemung, until the jail of the county of Schuyler, to be hereafter erected, shall be furnished in such manner as in the opinion of the sheriff of the said county of Schuyler will confine the prisoners of the same, when it shall be lawful for the sheriff to remove and commit them to the jail of the said county of Schuyler, and the account of the sheriff of the said county of Chemung, for the custody, maintenance and detention of all such

prisoners as may be thus committed to his charge, shall be audited, levied, collected and paid in the same manner as other contingent expenses of said county.

Loan commissioners. § 17. There shall be appointed in and for said county of Schuyler, in the manner now provided by law, two "commissioners for loaning certain moneys of the United States," of the county of Schuyler; immediately after such commissioners shall have been qualified and given the bonds required by law, there shall be transferred and delivered to them, and for their care and management, all the mortgages executed to or in the custody of such commissioners, for either of the counties of Steuben, Chemung and Tompkins, covering lands within the territory of said county of Schuyler; and thereafter the said commissioners of the county of Schuyler shall exercise the same powers and be subject to the same duties and responsibilities in relation to said mortgages, as if the same had been originally taken by and executed to them, the said commissioners of Schuyler, as such commissioners.

[Sections 18-25 are omitted as temporary or obsolete.]

L. 1879, Chap. 91 — An act to define the boundary line between the counties of Oneida and Madison.

Boundary line. SECTION 1. The present channel of the Oneida creek, as straightened and rectified, is hereby declared to be and made the boundary line between the counties of Oneida and Madison, from the northerly line of the town of Stockbridge to Oneida lake.

Proviso. § 2. Nothing in this act shall be construed to affect or impair liens acquired upon the portions of either of said counties, which are, by the provisions of the first section of this act, added to or taken from either of said counties.

L. 1881, Chap. 478 — An act to provide for the annexation of the island known as North Brothers Island, in the county of Queens, to the city and county of New York, and for confirming the title to such island in the city and county of New York; and to provide for the erection of a hospital thereon, and for the payment of the construction thereof.

North Brothers Island added to N. Y. SECTION 1. All that territory comprised within the limits of the North Brothers Island, being the northerly island of the islands called the Two Brothers, in the county of Queens, with the inhabitants and estates therein, is hereby set off from the county of Queens, annexed to, merged in, and made part of the city and county of New York, and shall hereafter constitute a part of the city and county of New York, subject to the same jurisdiction, laws, ordinances, regulations and liabilities, and entitled to the same rights, privileges, franchises and immunities in every respect, and to the same extent as if such island had been included within the said city and county of New York at the time of the adoption of the first charter and organization thereof, and had so remained up to the passage of this act; except, however, that until constitutionally and legally changed, said territory shall remain in and constitute a part of the same election district in which the said territory has heretofore been subject to existing laws.

Part of twenty-third ward. § 2. The territory hereby annexed shall be, and is hereby constituted a part of the twenty-third ward of the city of New York, subject to the laws, regulations, ordinances and jurisdiction then in force or hereafter established.

Buildings to be erected. § 3. The board of health of the health department of the city of New York shall be and is hereby authorized and empowered to erect, establish, maintain and furnish, upon the said island, buildings and hospitals for the care and treatment of persons sick with contagious diseases and shall have the exclusive charge and control of the said buildings and hospitals.

Appropriation. § 4. Within twenty days after the passage of this act the board of estimate and apportionment of the city of New York shall appropriate the sum of twenty-five thousand dollars, and shall insert the same in the tax levy of the year eighteen hundred and eighty-one, and the said sum of twenty-five thousand dollars shall be designated as the hospital fund, to be expended by the said board of health for the construction and care of said buildings and hospitals and for the transportation and care of persons sick with contagious disease, who may be removed to said island, and said board of estimate and apportionment shall annually thereafter estimate and appropriate the amount required for the proper care and maintenance of such buildings and hospitals.

Payment of debts, etc. § 5. Such proportion of the debts and obligations of the county of Queens existing when this act shall take effect, over and above the value of all the property belonging to said county, as shall proportionally and equitably be paid by the inhabitants, if any there are, and the property-holders of the territory by this act annexed, shall be paid by the city and county of New York to the said county of Queens, and the boards of supervisors of the counties of New York and Queens shall have power to determine the same in such manner as shall be agreed upon by them. Nothing contained in this act shall impair the obligation of any contract, and the property and the inhabitants, if any there are, of the territory by this act annexed to the city of New York, shall continue liable, to the same degree as they now are at present, to the creditors of the several towns and the county of Queens in like manner as if this act had not been passed.

L. 1881, Chap. 624—An act fixing and defining the boundary line between Kings and Queens counties, from the city of Brooklyn to the Atlantic ocean.

Certain boundary line between Kings and Queens. SECTION 1. The boundary line between Kings and Queens counties, from the city of Brooklyn to the Atlantic ocean, is hereby fixed and defined as follows, as now marked by monuments: Beginning at a point in the south-east line of the city of Brooklyn, at a monument formerly marking the junction of the towns of Bushwick, Newtown and New Lots, and running thence north, sixty-four degrees east, twelve hundred and forty-two and two-tenths feet; thence north, fifty-nine degrees thirty minutes east, thirteen hundred and sixty-seven and four-tenths feet; thence north, forty-six degrees thirty minutes east, six hundred and thirty-eight and forty-five one-hundredths feet; thence north, sixty-eight degrees east, twelve hundred and twenty and forty-five one-hundredths feet to the south-east corner of Ridgwood reservoir; thence north, fifty-three degrees forty-eight minutes east, seventeen hundred and sixty feet to flag-staff in national cemetery; thence north, sixty-six degrees thirteen minutes east, fifteen hundred and eighty-five and fifty-three one-hundredths feet to the center of the observatory in Cypress Hills Cemetery; thence north, eighty-seven degrees twenty-three minutes east, fourteen hundred and sixty-seven and thirty-nine one-hundredths feet to the monument between towns of Newtown, Jamaica and New Lots; thence south, three degrees twenty minutes east, sixteen hundred and forty-eight feet to center of Eldert's lane, on the south side of the Brooklyn and Jamaica plank-road; thence south, two degrees six minutes east, nine hundred and thirty-six and twenty-five one-hundredths feet along the center of said lane; thence south, four degrees ten minutes east, six hundred and forty-six and thirty-three one-hundredths feet along the center of said lane; thence south, four degrees twenty-four minutes east, five hundred and forty-nine and seventy-five one-hundredths feet along the center of said lane; thence south, one degree nineteen minutes west, seven hundred and forty-seven and twenty-five one-hundredths feet along the center of said lane to the line of curb-stone on the north line of Atlantic avenue, the last four courses being along the center of said lane as it is now, but the boundary to be along

the center of said lane, when straightened to conform to town survey map; thence south, thirty-eight degrees twenty-three minutes east, nine hundred and fifty feet; thence south, eight degrees thirty-five minutes east, twenty-five hundred and fifty-nine and twenty-three one-hundredths feet to the center of the conduit of Ridgwood water-works, where said conduit crosses Spring creek, formerly known as the "Kill east of Plunden's Neck;" thence along the center of said creek (sometimes called "Old Mill Creek") to a point at its mouth, marked on coast survey map of Jamaica bay, dated eighteen hundred and seventy-nine, accompanying the report of the committee appointed to fix said boundary line; thence south, thirty degrees east, eleven thousand eight hundred and eighty-one and six-tenths feet to a point on a marsh, sometimes called Black Bank, east of so-called Big Poll channel; thence south, ten degrees west, eight thousand and ninety-five feet to a point on so-called Cart Wheel Marsh; thence south, thirty-eight degrees fifteen minutes west, in range with Life Saving Station House Number Thirty-three, to the center of Beach channel, and thence westerly along the center of Beach channel to Rockaway inlet; thence along the center of Rockaway inlet to the sea.

Acts changing the boundaries of the counties of New York and Westchester, by annexing parts of the latter to the former county.

The following are the titles of the acts, whereby the boundary lines between the counties of New York and Westchester were changed. The acts themselves are omitted on account of voluminousness:

L. 1873, chap. 613. AN ACT to provide for the annexation of the towns of Morrisania, West Farms and Kingsbridge, in the county of Westchester, to the city and county of New York.

L. 1874, chap. 329. AN ACT to re-enact and amend an act, entitled "An act to provide for the annexation of the towns of Morrisania, West Farms and Kingsbridge, in the county of Westchester, to the city and county of New York," passed May twenty-third, eighteen hundred and seventy-three.

L. 1876, chap. 411. AN ACT to amend chapter three hundred and twenty-nine of the laws of eighteen hundred and seventy-four, entitled "An act to re-enact and amend an act, entitled 'An act to provide for the annexation of the towns of Morrisania, West Farms and Kingsbridge, in the county of Westchester, in the city and county of New York,'" passed May twenty-three, eighteen hundred and seventy-three.

L. 1881, Chap. 695 — An act extending the jurisdiction of Queens and Suffolk counties, and of certain towns thereof, over the waters of Long Island sound.

Queens and Suffolk counties extended northward. SECTION 1. The boundary line between the counties of Queens and Suffolk is hereby extended northwardly into Long Island sound, at a right angle to the general trend of the coast until it intersects the boundary line between the states of New York and Connecticut, as lately established by the commissioners of the said states, and confirmed by the respective legislatures thereof.

Id., town lines. § 2. The boundary lines of the several towns in the counties of Queens and Suffolk that adjoin Long Island sound are hereby extended northwardly into Long Island sound, at right angles to the general trend of the coast at their several respective points, until they intersect the boundary line between the states of New York and Connecticut as lately established by the commissioners of the said states, and confirmed by the respective legislatures thereof.

Id., jurisdiction of officers. § 3. The jurisdiction of the legally constituted officers of Queens and Suffolk counties, and of the respective towns of said counties bordering on Long Island sound, is hereby extended over the waters of said sound to the Connecticut state line.

L. 1884, Chap. 262—An act to provide for the purchase of the island known as Riker's island, in the county of Queens, by the commissioners of public charities and correction of the city of New York, to provide for the annexation thereof to the city and county of New York, and to provide funds for such purchase.

Commissioners may purchase Riker's island. SECTION 1. The commissioners of public charities and correction of the city of New York are hereby authorized and empowered to purchase, and in the name of the mayor, aldermen and commonalty of the city of New York to take title to the island, in the county of Queens, known as Riker's island, including all upland and land under water thereon, and all water rights surrounding the same, for such price, not in excess of the sum hereinafter specified, as the said commissioners shall deem just and reasonable, the owners of said lands and water rights consenting thereto; and such price may be determined by arbitration upon consent of the said commissioners and the present owners. But the total sum to be paid for such land and water rights, and including the expenses of such arbitration if required, shall in no event exceed one hundred and eighty thousand dollars.

When purchased, island to be a part of city and county of New York. § 2. Upon the completion of such purchase all that territory comprised within the limits of the said Riker's island, in the county of Queens, with the inhabitants and estates therein, is hereby set off from the county of Queens, annexed to, merged in and made part of the city and county of New York, and shall hereafter constitute a part of the city and county of New York, subject to the same jurisdiction, laws, ordinances, regulations and liabilities and entitled to the same rights, privileges, franchises and immunities in every respect and to the same extent as if the said island had been included within the said city and county of New York, at the time of the adoption of the first charter and organization thereof, and had so remained up to the passage of this act; except, however, that until constitutionally and legally changed, said territory shall remain in and constitute a part of the same election district in which the said territory has heretofore been subject to existing laws.

Ward. § 3. Said territory, when annexed, shall be and constitute a part of the twenty-third ward of the city of New York, subject to the laws, regulations, ordinances and jurisdiction then in force or thereafter established.

Debts, etc., how to be apportioned and paid. § 4. Such proportion of the debts and obligations of the county of Queens and such proportion of the debts of Long Island City, existing when such territory shall be so annexed, over and above the value of all the property belonging to the said county, as shall proportionately and equitably be payable by the inhabitants, if any there are, and the property holders of the territory by this act to be annexed, shall be paid by the city and county of New York to the said county of Queens and to the said Long Island City, and the board of supervisors of the county of Queens and the treasurer of Long Island City and the comptroller of the city and county of New York shall have power to determine the same in such manner as shall be agreed upon by them. Nothing contained in this act shall impair the obligation of any contract, and the property and inhabitants, if any there are, of the territory by this act to be annexed to the city

of New York, shall continue liable to the same degree as they may be when the said territory shall be annexed, to the creditors of the several towns and the county of Queens in like manner as if this act had not been passed.

Comptroller may issue bonds to carry out provisions of this act. § 5. The comptroller of the city of New York is hereby authorized to issue bonds or stocks of the mayor, aldermen and commonalty of the city of New York, redeemable in not less than ten or more than twenty years from the date of issue, in such amounts as shall be necessary to carry out the provisions of this act, but the par value of such bonds shall not exceed in the aggregate one hundred and eighty thousand dollars. And the mayor and comptroller of said city of New York are hereby authorized and directed to sign said bonds, which shall bear interest at a rate not exceeding four per centum per annum, and shall not be disposed of at less than the par value thereof. And it shall be the duty of the clerk of the common council of said city to countersign the same and to affix the seal of the city thereto. And the proper authorities of the city and county of New York are hereby authorized and directed to cause to be raised, upon the estates, real and personal, subject to taxation in the city and county of New York, the sum of money which may be required to pay the interest and the principal on the said bonds at maturity.

Comptroller to pay for island. § 6. Upon any contract or contracts being made for the purchase of said island, including the upland, land under water and water rights around the same by the said commissioners, and upon the same being certified by them to the comptroller of the city of New York, the said comptroller is hereby directed to pay from the proceeds of the bonds issued under the provisions of section five of this act, to the order of the said commissioners, such sum or sums of money, not in excess of one hundred and eighty thousand dollars in the aggregate, as may be necessary to pay for the property so purchased, and for all the expenses of effecting such purchase.

TITLE I.

TITLE II.

Of the Senate Districts

- SEC. 1. Division of the state into eight senate districts.
 2. Districts to be altered at the first session after every census.
 3. To consist of contiguous territory and of whole counties.

[Section 1 superseded by Const. of 1846, and subsequent laws.]

When and
how al-
tered.

§ 2. At the first session after the return of every enumeration to be made of the inhabitants of the state, the senate districts are to be so altered by the legislature, that each district shall contain as nearly as may be, an equal number of inhabitants, excluding aliens, paupers, and persons of color not taxed.

[Superseded, in effect, by Const. 1846, art. 3, § 4.]

Territory.

§ 3. Each senate district is required at all times to consist of contiguous territory; and no county can be divided in the formation of a senate district.

[Modified by same section of Const.]

L. 1879, Chap. 208 — An act to organize the senate districts and for the apportionment of the members of assembly of this state.

Senate districts. SECTION 1. The senate districts of this state, from and after the passage of this act, shall consist as follows:

First. The first senate district shall consist of the counties of Queens and Suffolk.

Second. The second senate district shall consist of the first, second, fifth, sixth, eighth, ninth, tenth, twelfth and twenty-second wards of the city of Brooklyn and the towns of Flatbush, Gravesend, and New Utrecht, county of Kings.

Third. The third senate district shall consist of the third, fourth, seventh, eleventh, thirteenth, nineteenth, twentieth, twenty-first and twenty-third wards of the city of Brooklyn.

Fourth. The fourth senate district shall consist of the fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, twenty-fourth and twenty-fifth wards of the city of Brooklyn, and the towns of New Lots and Flatlands.

Fifth. The fifth senate district shall consist of the county of Richmond and the present first, second, third, fifth, sixth, eighth and fourteenth wards of the city of New York, all that portion of the fourth ward of said city that lies within Roosevelt street, Chatham street, Park row, Spruce street, Gold street, Ferry street, Peck slip and East river, all that portion of the ninth ward of said city that lies within Houston street, Hancock street, Bleecker street, Leroy street and North river, Governor's Island, Bedloe's Island and Ellis Island.

Sixth. The sixth senate district shall consist of the seventh, eleventh and thirteenth wards of the city of New York, and all that portion of the fourth ward of said city that lies within Catherine street, Chatham street, Roosevelt street and East river.

Seventh. The seventh senate district shall consist of the tenth and seventeenth wards of the city of New York, all that portion of the fifteenth ward of said city that lies east of Broadway, and all that portion of the eighteenth and twenty-first wards of said city that lies within Fourteenth street, Thirtieth street, Third avenue and Broadway.

Eighth. The eighth senate district shall consist of the sixteenth ward of the city of New York, all that portion of the ninth ward of said city that lies within Leroy street, Bleecker street, Carmine street, Sixth avenue, Fourteenth street and North river, all that portion of the fifteenth ward of said city that lies west of Broadway, all that portion of the eighteenth and twenty-first wards of said city that lies within Fourteenth street, Thirtieth street, Broadway and Sixth avenue

and all that portion of the twentieth ward of said city that lies within Twenty-sixth street, Thirtieth street, Sixth avenue and North river.

Ninth. The ninth senate district shall consist of all that portion of the eighteenth, nineteenth and twenty-first wards of the city of New York that lies east of Third avenue and Blackwell's Island.

Tenth. The tenth senate district shall consist of all that portion of the twentieth and twenty-first wards of the city of New York that lies within Thirtieth street, Fortieth street, Third avenue and Eighth avenue, all that portion of the nineteenth ward of said city that lies west of Third avenue, and all that portion of the twelfth and twenty-second wards that lies east of Eighth avenue, Ward's and Randall's Islands.

Eleventh. The eleventh senate district shall consist of the twenty-third and twenty-fourth wards of the city of New York, and all that portion of the twelfth, twentieth and twenty-second wards of said city that lies within Thirtieth street, Spuyten Duyvel creek, Eighth avenue and Hudson river.

Twelfth. The twelfth senate district shall consist of the counties of Westchester and Rockland.

Thirteenth. The thirteenth senate district shall consist of the counties of Orange and Sullivan.

Fourteenth. The fourteenth senate district shall consist of the counties of Ulster, Schoharie and Green.

Fifteenth. The fifteenth senate district shall consist of the counties of Dutchess, Columbia and Putnam.

Sixteenth. The sixteenth senate district shall consist of the counties of Rensselaer and Washington.

Seventeenth. The seventeenth senate district shall consist of the county of Albany.

Eighteenth. The eighteenth senate district shall consist of the counties of Saratoga, Fulton, Hamilton, Montgomery and Schenectady.

Nineteenth. The nineteenth senate district shall consist of the counties of Clinton, Essex and Warren.

Twentieth. The twentieth senate district shall consist of the counties of St. Lawrence, Franklin and Lewis.

Twenty-first. The twenty-first senate district shall consist of the counties of Oswego and Jefferson.

Twenty-second. The twenty-second senate district shall consist of the county of Oneida.

Twenty-third. The twenty-third senate district shall consist of the counties of Madison, Otsego and Herkimer.

Twenty-fourth. The twenty-fourth senate district shall consist of the counties of Delaware, Chenango and Broome.

Twenty-fifth. The twenty-fifth senate district shall consist of the counties of Onondaga and Cortland.

Twenty-sixth. The twenty-sixth senate district shall consist of the counties of Cayuga, Seneca, Tompkins and Tioga.

Twenty-seventh. The twenty-seventh senate district shall consist of the counties of Chemung, Steuben and Allegany.

Twenty-eighth. The twenty-eighth senate district shall consist of the counties of Wayne, Ontario, Schuyler and Yates.

Twenty-ninth. The twenty-ninth senate district shall consist of the counties of Monroe and Orleans.

Thirtieth. The thirtieth senate district shall consist of the counties of Wyoming, Genesee, Livingston and Niagara.

Thirty-first. The thirty-first senate district shall consist of the county of Erie.

Thirty-second. The thirty-second senate district shall consist of the counties of Cattaraugus and Chautauqua.

[Sections 2 and 3, constituting the remainder of this act, will be found in a subsequent portion of this chapter.]

TITLE 3.

TITLE III.

Of the Congress Districts.

[This entire title, comprised in a single section, has been superseded, successively, by L. 1842, ch. 325; L. 1851, ch. 499; L. 1862, ch. 454; L. 1873, ch. 798, and L. 1883, ch. 424.]

L. 1842, Chap. 325—An act to divide the state into congressional districts.

[Sections 1, 3 and 4 of this act, *i. e.*, all thereof, except § 2, deemed obsolete.]

§ 2. Each district shall be entitled to elect one member.

L. 1883, Chap. 424—An act dividing the state into congressional districts.

State divided into congressional districts. SECTION 1. For the election of representatives in congress of the United States, this state shall be and is hereby divided into thirty-four districts, namely:

First district. The counties of Richmond, Suffolk and Queens shall compose the first district.

Second district. The towns of New Lots, Flatbush, Flatlands, Gravesend and New Utrecht, and the territory comprised in the present eighth, ninth, twelfth, twenty-second, twenty-fourth and twenty-fifth wards of the city of Brooklyn shall compose the second district.

Third district. The territory comprised in the present seventh, thirteenth, nineteenth, twentieth, twenty-first and twenty-third wards of the city of Brooklyn shall compose the third district.

Fourth district. The territory comprised in the present first, second, third, fourth, fifth, sixth, tenth and eleventh wards of the city of Brooklyn shall compose the fourth district.

Fifth district. The territory comprised in the present fourteenth, fifteenth, sixteenth, seventeenth and eighteenth wards of the city of Brooklyn shall compose the fifth district.

Sixth district. The first, fifth and ninth assembly districts of the county of New York, as now constituted, shall compose the sixth district.

Seventh district. The second, third and seventh assembly districts of the county of New York, as now constituted, shall compose the seventh district.

Eighth district. The fourth, sixth and eighth assembly districts of the county of New York, as now constituted, shall compose the eighth district.

Ninth district. The tenth, twelfth and fourteenth assembly districts of the county of New York, as now constituted, shall compose the ninth district.

Tenth district. The eleventh, sixteenth and eighteenth assembly districts of the county of New York, as now constituted, shall compose the tenth district.

Eleventh district. The thirteenth, fifteenth and seventeenth assembly districts of the county of New York, as now constituted, shall compose the eleventh district.

Twelfth district. The twentieth and twenty-first assembly districts of the county of New York, as now constituted, and that portion of the twenty-second assembly district of the county of New York, bounded on the north by the south side of Eighty-sixth street, on the south by the north side of Fifty-ninth street, on the west by the east side of Lexington avenue, and on the east by the East river, shall compose the twelfth district.

Thirteenth district. The nineteenth and twenty-third assembly districts of the county of New York, as now constituted, and that portion of the twenty-second assembly district of said county, bounded on the north by the south side of Ninety-first street, on the south by the north side of Eighty-sixth street, on the west by the east side of Fifth avenue, and east by the East river, shall compose the thirteenth district.

Fourteenth district. The county of Westchester and the twenty-fourth assembly district of the county of New York, as now constituted, shall compose the fourteenth district.

Fifteenth district. The counties of Orange, Rockland and Sullivan shall compose the fifteenth district.

Sixteenth district. The counties of Putnam, Dutchess and Columbia shall compose the sixteenth district.

Seventeenth district. The counties of Ulster, Greene and Delaware shall compose the seventeenth district.

Eighteenth district. The counties of Rensselaer and Washington shall compose the eighteenth district.

Nineteenth district. The county of Albany shall compose the nineteenth district.

Twentieth district. The counties of Saratoga, Schenectady, Montgomery, Fulton and Hamilton shall compose the twentieth district.

Twenty-first district. The counties of Clinton, Essex, Warren and Franklin shall compose the twenty-first district.

Twenty-second district. The counties of St. Lawrence and Jefferson shall compose the twenty-second district.

Twenty-third district. The counties of Oneida and Lewis shall compose the twenty-third district.

Twenty-fourth district. The counties of Schoharie, Otsego and Herkimer shall compose the twenty-fourth district.

Twenty-fifth district. The counties of Onondaga and Cortland shall compose the twenty-fifth district.

Twenty-sixth district. The counties of Madison, Chenango, Broome and Tioga shall compose the twenty-sixth district.

Twenty-seventh district. The counties of Oswego, Cayuga and Wayne shall compose the twenty-seventh district.

Twenty-eighth district. The counties of Tompkins, Chemung, Schuyler and Seneca shall compose the twenty-eighth district.

Twenty-ninth district. The counties of Ontario, Steuben and Yates shall compose the twenty-ninth district.

Thirtieth district. The county of Monroe shall compose the thirtieth district.

Thirty-first district. The counties of Livingston, Genesee, Orleans and Wyoming shall compose the thirty-first district.

Thirty-second district. The first, second and third assembly districts of the county of Erie, as now constituted, shall compose the thirty-second district.

Thirty-third district. The county of Niagara and the fourth and fifth assembly districts of the county of Erie, as now constituted, shall compose the thirty-third district.

Thirty-fourth district. The counties of Chautauqua, Cattaraugus and Allegany shall compose the thirty-fourth district.

TITLE 4.

TITLE IV.*

Of the several Towns of this State.

- Sec.** 1. Towns in the county of Suffolk.
 2. Towns in the county of Queens.
 3. Towns in the county of Kings.
 4. Towns in the county of Richmond.
 5. Towns in the county of Westchester.
 6. Towns in the county of Putnam.
 7. Towns in the county of Dutchess.
 8. Towns in the county of Rockland.
 9. Towns in the county of Orange.
 10. Towns in the county of Ulster.
 11. Towns in the county of Sullivan.
 12. Towns in the county of Delaware.
 13. Towns in the county of Greene.
 14. Towns in the county of Columbia.
 15. Towns in the county of Albany.
 16. Towns in the county of Rensselaer.
 17. Towns in the county of Schoharie.
 18. Towns in the county of Schenectady.
 19. Towns in the county of Saratoga.
 20. Towns in the county of Montgomery.
 21. Towns in the county of Hamilton.
 22. Towns in the county of Washington.
 23. Towns in the county of Warren.
 24. Towns in the county of Essex.
 25. Towns in the county of Clinton.
 26. Towns in the county of Franklin.
 27. Towns in the county of St. Lawrence.
 28. Towns in the county of Herkimer.
 29. Towns in the county of Oneida.
 30. Towns in the county of Madison.
 31. Towns in the county of Oswego.
 32. Towns in the county of Lewis.
 33. Towns in the county of Jefferson.
 34. Towns in the county of Otsego.
 35. Towns in the county of Chenango.
 36. Towns in the county of Broome.
 37. Towns in the county of Cortland.
 38. Towns in the county of Tompkins.
 39. Towns in the county of Tioga.
 40. Towns in the county of Steuben.
 41. Towns in the county of Onondaga.
 42. Towns in the county of Cayuga.
 43. Towns in the county of Seneca.
 44. Towns in the county of Ontario.
 45. Towns in the county of Yates.
 46. Towns in the county of Wayne.
 47. Towns in the county of Livingston.
 48. Towns in the county of Monroe.
 49. Towns in the county of Genesee.
 50. Towns in the county of Orleans.
 51. Towns in the county of Niagara.
 52. Towns in the county of Erie.

* This title, in the R. S., as originally passed, contained a full description of the boundaries of the several towns as they then existed. In the first edition, as published, the revisers inserted this description of town boundaries in volume 3, where it filled more than 100 pages. In the subsequent editions of the R. S., the provisions of law changing the names or boundaries of towns, erecting new towns, abolishing old towns, etc., have been interspersed among the sections of this title, and the text of the sections altered to correspond with them. In the sixth edition of the R. S., this title, in consequence of such additions, fills 163 pages, larger in size and much more closely printed than those of the first edition of the R. S. In the opinion of the editor of this edition, the preservation, in that form, of the description of town boundaries was not of sufficient importance, to justify the devotion to it of so large a portion of the work. The boundaries have accordingly been omitted, and references in the notes to subsequent statutes have been substituted for the text of the statutes themselves. The text of the R. S. has accordingly been preserved intact; the changes rendered necessary by subsequent statutes being indicated in the notes, and by italicized additions placed in parentheses.

TITLE 4.

- SEC. 53. Towns in the county of Allegany.
 54. Towns in the county of Cattaraugus.
 55. Towns in the county of Chautauque.
 56. Magnetic needle to be taken as it pointed when the preceding boundaries of towns were originally established.
 57. Private rights not to be affected by the description of towns.
 58. What is to be the division line between towns separated by a river, creek, or lake.
 59. Within what town islands to be deemed, which are intersected by the boundary of a town.

SECTION I. The county of Suffolk shall be divided into the towns of Brookhaven, Easthampton, Huntington, Islip, Riverhead, Shelter-Island, Smithtown, Southampton, and Southold (*also Babylon*). Towns in the county of Suffolk.

[Town of Babylon created by L. 1872, ch. 106.]

§ 2. The county of Queens shall be divided into the towns of Flushing, Hempstead, Jamaica, Newtown, North-Hempstead, and Oysterbay; (*also Long Island City*). Queens.

[Long Island City erected by L. 1870, ch. 719.]

§ 3. The county of Kings shall be divided into the towns of Brooklyn,¹ Bushwick,¹ Flatbush, Flatlands, Gravesend, and New-Utrecht; (*also Brooklyn City*). Kings.

[New Lots was erected by supervisors Feb. 12, 1853, annexed to city of Brooklyn by L. 1888, ch. 335; Brooklyn city erected by L. 1834, ch. 92; Williamsburgh city by L. 1851, ch. 91, and together with Bushwick consolidated with Brooklyn in 1854.]

§ 4. The county of Richmond shall be divided into the towns of Castleton, Northfield, Southfield, and Westfield; (*also Middletown*). Richmond.

[Town of Middletown erected by L. 1860, ch. 428.]

§ 5. The county of Westchester shall be divided into the towns of Bedford, Cortland, Eastchester, Greenburgh, Harrison, Mamaroneck, Mount-Pleasant, New-Rochelle, Newcastle, Northcastle, North-Salem, Pelham, Poundridge, Rye, Scarsdale, Somers, South Salem, (*now Lewisboro*), Westchester, White-Plains, Yonkers,² and Yorktown; (*also Ossining and Yonkers City*). Westchester.

[The name of South Salem changed to Lewisboro by L. 1840, ch. 23. Town of Ossining erected by L. 1846, ch. 122; name changed to Ossining by L. 1846; ch. 30; Yonkers City erected by L. 1872, ch. 866; Kingsbridge erected by L. 1873, ch. 873, annexed to city of New York by L. 1873, ch. 613; Morrisania erected by supervisors, L. 1856, ch. 210; West Farms erected by L. 1846, ch. 279; Morrisania and West Farms annexed to New York city by L. 1873, ch. 613.]

§ 6. The county of Putnam shall be divided into the towns of Carmel, Kent, Patterson, Phillipstown, and Southeast; (*also Putnam Valley*). Putnam.

[The town of Quincy was created by L. 1830, ch. 76, the name was changed to Putnam Valley by L. 1840, ch. 24.]

§ 7. The county of Dutchess shall be divided into the towns of Amenia, Beekman, Clinton, Dover, Fishkill, La Grange, Hyde-Park, Milan, Northeast, Pawling, Pine-Plains, Pleasant-Valley, Poughkeepsie, Redhook, Rhinebeck, Stanford, Union Vale, and Washington; (*also East Fishkill, Poughkeepsie City, and Wappinger*). Dutchess.

[East Fishkill erected by supervisors Nov. 29, 1849; Poughkeepsie City erected by L. 1864, ch. 90; Wappinger erected by L. 1875, ch. 400.]

¹ This town no longer exists.
² This town no longer exists.

TITLE 4.
Rockland.

§ 8. The county of Rockland shall be divided into the towns of Clarkstown, Ramapo, Haverstraw, and Orangetown; (*also Stony Point*).

[Stony Point erected by L. 1865, ch. 152.]

Orange.

§ 9. The county of Orange shall be divided into the towns of Blooming-Grove, Calhoun, (*now Mount Hope*), Cornwall, Crawford, Deerpark, Goshen, Minisink, Montgomery, Monroe, Newburgh, New-Windsor, Wallkill, and Warwick; (*also Highlands, Greenville, Hamptonburgh, Chester, Wawayanda, Newburgh City, and Middletown City*).

[The name of Calhoun changed to Mount Hope by L. 1833, ch. 63; town of Highlands erected by L. 1873, ch. 874; Greenville erected by supervisors Dec. 2, 1853; Hamptonburgh erected by L. 1830, ch. 110; Chester erected by L. 1845, ch. 52; Wawayanda erected by supervisors Nov. 27, 1849; Newburgh city by L. 1865, ch. 541; Middletown city by L. 1885, ch. 535.]

Ulster.

§ 10. The county of Ulster shall be divided into the towns of Esopus, Hurley, Kingston, Marbletown, Marlborough, New-Paltz, Olive, Plattekill, Rochester, Saugerties, Shandaken, Shawangunk, Wawarsing, and Woodstock (*also Hardenbergh, Gardiner, Rosendale, Lloyd, Denning, Kingston City, and Ulster*).

[Town of Hardenbergh erected by L. 1859, ch. 361; Gardiner erected by L. 1853, ch. 88; Rosendale erected by L. 1844, ch. 206; Lloyd erected by L. 1845, ch. 68; Denning erected by L. 1849, ch. 73; Kingston City erected by L. 1872, ch. 150; Ulster erected by supervisors Nov. 28, 1879.]

Sullivan.

§ 11. The county of Sullivan shall be divided into the towns of Bethel, Cohecton, Fallsburgh, Liberty, Lumberland, Mamakating, Nevisink, Rockland, and Thompson; (*also Collikoon, Delaware, Forestburgh, Fremont, Highland, and Tusten*).

[Collikoon erected by L. 1842, ch. 118; Delaware erected by L. 1869, ch. 921; Forestburgh erected by L. 1837, ch. 299; Fremont erected by supervisors Nov. 14, 1851; Highland erected by supervisors Dec. 17, 1853; Tusten erected by supervisors Dec. 17, 1853.]

Delaware.

§ 12. The county of Delaware shall be divided into the towns of Andes, Bovina, Colchester, Davenport, Delhi, Franklin, Hamden, Hancock, Harpersfield, Kortright, Masonville, Meredith, Middletown, Roxbury, Sidney, Stamford, Tompkins, and Walton; (*also Deposit*).

[Deposit erected by L. 1880, ch. 177.]

Greene.

§ 13. The county of Greene shall be divided into the towns of Athens, Cairo, Catskill, Coxsackie, Durham, Hunter, Greenville, Lexington, New Baltimore, and Windham; (*also Halcott, Prattsville, Ashland, and Jewett*).

[Halcott erected by supervisors Nov. 19, 1851; Prattsville erected by L. 1833, ch. 54; Ashland erected by L. 1848, ch. 115; Jewett erected by supervisors Nov. 16, 1849.]

Columbia.

§ 14. The county of Columbia shall be divided into the towns of Ancram, Austerlitz, Canaan, Chatham, Claverack, Clermont, Copake, Germantown, Ghent, Hillsdale, Kinderhook, New Lebanon, Livingston, Stuyvesant, and Taghkanick, and the city of Hudson; (*also Gallatin, Stockport, and Greenport*).

[Gallatin erected by L. 1830, ch. 95; Stockport erected by L. 1833, ch. 186; Greenport erected by L. 1837, ch. 420.]

Albany.

§ 15. The county of Albany shall be divided into the towns of Bern, Bethlehem, Coeymans, Guilderland, Knox, Rensselaerville,

Watervliet, Westerlo, and the city of Albany; (*also the town of New Scotland and the city of Cohoes*). TITLE 4.

[Town of New Scotland erected by L. 1832, ch. 253; city of Cohoes erected by L. 1869, ch. 912.]

§ 16. The county of Rensselaer shall be divided into the towns of Berlin, Brunswick, Grafton, Greenbush, Hosick, Lansingburgh, Nassau, Petersburg, Pittstown, Sand Lake, Schaghticoke, Schodack, Stephentown, and the city of Troy; (*also North Greenbush, East Greenbush, and Poestenkill*). Rensselaer.

[North Greenbush was erected by supervisors Feb. 23, 1865; East Greenbush was erected, at the same time, as Clinton, the name being changed to East Greenbush by L. 1858, ch. 194; Poestenkill erected by L. 1848, ch. 64.]

§ 17. The county of Schoharie shall be divided into the towns of Blenheim, Broome, Carlisle, Cobleskill, Fulton, Jefferson, Middleburgh, Schoharie, Sharon, and Summit; (*also Conesville, Seward, Esperance, Wright, Gilboa and Richmondville*). Schoharie.

[Conesville erected by L. 1836, ch. 31; Seward erected by L. 1840, ch. 20; Esperance erected by L. 1846, ch. 53; Wright erected by L. 1846, ch. 53; Gilboa erected by L. 1848, ch. 92; Richmondville erected by L. 1849, ch. 385.]

§ 18. The county of Schenectady shall be divided into the towns of Duaneburgh, Glenville, Neskayuna, Princetown and Rotterdam, and the city of Schenectady. Schenectady.

§ 19. The county of Saratoga shall be divided into the towns of Ballston, Charlton, Clifton, Corinth, Day, Edinburgh, Galway, Greenfield, Hadley, Halfmoon, Malta, Milton, Moreau, Northumberland, Providence, Saratoga, Saratoga Springs, Stillwater, Waterford and Wilton. Saratoga.

[The name of Clifton changed to Clifton Park by L. 1829, ch. 92.]

§ 20. The county of Montgomery shall be divided into the towns of Amsterdam, Broadalbin,* Canajoharie, Charleston, Ephratah,* Florida, Glen, Johnstown,* Mayfield,* Minden, Northampton,* Openheim,* Palatine, Root and Stratford;* (*also Mohawk, St. Johnsville and the city of Amsterdam*). Montgomery.

[Towns marked thus * transferred to Fulton county. Mohawk erected by L. 1837, ch. 152; St. Johnsville by L. 1838, ch. 332; Amsterdam city by L. 1886, ch. 131.]

§ 21. The county of Hamilton shall be divided into the towns of Hope, Lake Pleasant, and Wells; (*also Arietta, Benson, Indian Lake, Long Lake, and Morehouse*). Hamilton.

[Arietta erected by L. 1836, ch. 354; Benson erected by L. 1860, ch. 178; Gilman erected by L. 1839, ch. 213; abolished by L. 1860, ch. 200; Indian Lake erected by L. 1859, ch. 515; Long Lake erected by L. 1860, ch. 200; Morehouse erected by L. 1835, ch. 85].

§ 22. The county of Washington shall be divided into the towns of Argyle, Cambridge, Dresden, Easton, Fort Ann, Fort Edward, Granville, Greenwich, Hampton, Hartford, Hebron, Jackson, Kingsbury, Putnam, Salem, Whitecreek, and Whitehall. Washington.

§ 23. The county of Warren shall be divided into the towns of Athol,¹ Bolton, Caldwell, Chester, Hague, Johnsburch, Luzerne, Queensbury, and Warrensburgh; (*also Horicon, Thurman, and Stony Creek*). Warren.

[Horicon erected by L. 1838, ch. 132; the town of Athol was divided by supervisors Nov. 13, 1852, and two separate towns erected, to be known as Thurman and Stony Creek.]

¹ This town no longer exists.

TITLE 4.
Essex.

§ 24. The county of Essex shall be divided into the towns of Chesterfield, Crown-Point, Essex, Elizabethtown, Jay, Keene, Lewis, Minerva, Moriah, Newcomb, Schroon, Ticonderoga, Westport, Willsborough, and Wilmington; (*also North Elba, St. Armand, and North Hudson*).

[North Elba erected by supervisors, Dec. 13, 1849; St. Armand erected by L. 1844, ch. 185; North Hudson erected by L. 1848, ch. 270.]

Clinton. § 25. The county of Clinton shall be divided into the towns of Beekmantown, Champlain, Chazy, Mooers, Peru, Plattsburgh, and Saranac; (*also Dannemora, Altona, Ellenburgh, Au Sable, Black Brook, Clinton, and Schuyler Falls*).

[Dannemora erected by supervisors Dec. 14, 1854; Altona erected by supervisors Dec. 2, 1857; Ellenburgh erected by L. 1830, ch. 246; Au Sable erected by L. 1839, ch. 113, as amended by ch. 372; Black Brook erected by L. 1839, ch. 113; Clinton erected by L. 1845, ch. 302; Schuyler Falls erected by L. 1848, ch. 175.]

Franklin. § 26. The county of Franklin shall be divided into the towns of Bangor, Brandon, Chateaugay, Constable, Dickinson, Duane, Fort Covington, Malone, and Moira; (*also Westville, Belmont, Bombay, Franklin, Harrietstown, Burke, Brighton, and Waverly*).

[Westville erected by L. 1829, ch. 274; Belmont erected by L. 1833, ch. 79; Bombay erected by L. 1833, ch. 89; Franklin erected by L. 1836, ch. 386; Harrietstown erected by L. 1841, ch. 60; Burke erected by L. 1844, ch. 200; Brighton erected by supervisors Nov., 1858, and Waverly, Nov. 22, 1880.]

St. Lawrence.

§ 27. The county of St. Lawrence, shall be divided into the towns of Brasher, Canton, De Kalb, De Puyster, Edwards, Fowler, Gouverneur, Hammond, Hopkinton, Lawrence, Lisbon, Louisville, Madrid, Massena, Morristown, Norfolk, Oswegatchie, Parishville, Pierrepont, Potsdam, Rossie, Russell, and Stockholm; (*also Waddington, Clifton, Hermon, Pitcairn, Macomb, Colton, Fine, Clare, and Ogdensburg City*).

[Waddington erected by L. 1860, ch. 527; Clifton erected by L. 1868, ch. 270; Depeau erected by L. 1830, ch. 248, name changed to Hermon by L. 1834, ch. 19; Pitcairn erected by L. 1836, ch. 78; Macomb by L. 1841, ch. 90; Colton by L. 1843, ch. 100; Fine by L. 1844, ch. 73; Clare by supervisors, Dec. 2, 1880; Ogdensburg City erected by L. 1868, ch. 335.]

Herkimer. § 28. The county of Herkimer shall be divided into the towns of Columbia, Danube, Fairfield, Frankfort, German-Flatts, Herkimer, Litchfield, Manheim, Newport, Norway, Russia, Salisbury, Schuyler, Starks, Warren, West-Brunswick,¹ and Winfield; (*also Little Falls, Wilmurt, and Ohio*).

[Little Falls erected by L. 1829, ch. 31; Wilmurt and Ohio, formerly West Brunswick, erected by L. 1836, ch. 235.]

Oneida. § 29. The county of Oneida shall be divided into the towns of Annsville, Augusta, Boonsville, Bridgewater, Camden, Deerfield, Florence, Floyd, Lee, Paris, Remsen, Rome,* Sangerfield, Steuben, Trenton, Utica,* Vernon, Verona, Vienna, Western, Westmoreland, Whitestown, Kirkland, and New Hartford; (*also Forestport, Marshall, Marcy, Ava, Utica City, and Rome City*).

[The towns marked thus * no longer exist; Forestport erected by supervisors Feb. 28, 1870; Marshall erected by L. 1829, ch. 35; Marcy erected by L. 1832, ch. 73; Ava erected by L. 1846, ch. 253; Utica City erected by L. 1832, ch. 19; Rome City erected by L. 1870, ch. 25.]

¹ This town no longer exists.

§ 30. The county of Madison shall be divided into the towns of ^{TITLE 4.}
Brookfield, Cazenovia, De Ruyter, Eaton, Fenner, Georgetown, ^{Madison.}
Hamilton, Lebanon, Lenox, Madison, Nelson, Smithfield and Sul-
livan; (*also Stockbridge*).

[Stockbridge erected by L. 1836, ch. 393.]

§ 31. The county of Oswego shall be divided into the towns of ^{Oswego.}
Albion, Boylestown, Constantia, Granby, Hannibal, Hastings, Mex-
ico, New-Haven, Orwell, Oswego, Parish, Redfield, Richland, Sandy-
Creek, Scriba, Volney, and Williamstown; (*also Amboy, Palermo,*
Schroepfel, West Monroe, and Oswego City).

[Amboy erected by L. 1830, ch. 91; Palermo erected by L. 1832, ch. 61; Schroep-
fel erected by L. 1832, ch. 89; West Monroe erected by L. 1839, ch. 84;
Oswego City erected by L. 1848, ch. 116.]

§ 32. The county of Lewis shall be divided into the towns of ^{Lewis.}
Brantingham,¹ Denmark, Lowville, Harrisburgh, Leyden, Martins-
burgh, Pinckney, Turin and Watson; (*also Greig, Lyonsdale, West*
Turin, Diana, Croghan, Osceola, New Bremen, Montague, High
Market, and Lewis).

[Greig, formerly Brantingham, changed by L. 1832, ch. 22; Lyonsdale erected
by supervisors Nov. 26, 1873; West Turin erected by L. 1830, ch. 93; Diana
erected by L. 1830, ch. 212; Croghan erected by L. 1841, ch. 93; Osceola
erected by L. 1844, ch. 27; New Bremen erected by L. 1848, ch. 160; Mon-
tague erected by supervisors Nov. 14, 1850; High Market erected by super-
visors Nov. 11, 1852; Lewis erected by supervisors Nov. 11, 1852.]

§ 33. The county of Jefferson shall be divided into the towns of ^{Jefferson.}
Adams, Alexandria, Antwerp, Brownville, Champion, Ellisburgh,
Henderson, Hounsfield, Le Ray, Lorraine, Lyme, Orleans, Pamela,
Philadelphia, Rodman, Rutland, Watertown, and Wilna; (*also Clay-*
ton, Theresa, Worth, Cape Vincent, and Watertown City).

[Clayton erected by L. 1833, ch. 255; Theresa erected by L. 1841, ch. 99; Worth
erected by L. 1848, ch. 361; Cape Vincent erected by L. 1849, ch. 328; Water-
town City erected May 8, 1869.]

§ 34. The county of Otsego shall be divided into the towns of ^{Otsego.}
Burlington, Butternuts, Cherry-Valley, Decatur, Edmeston, Exeter,
Hartwick, Huntsville,² Laurens, Maryland, Middlefield, Milford,
New-Lisbon, Otego,³ Otsego, Pittsfield, Plainfield, Richfield, Spring-
field, Unadilla, Westford, and Worcester; (*also Roseboom, Oneonta,*
and Morris).

[Roseboom erected by supervisors Nov. 23, 1854; Oneonta erected by L. 1830, ch.
239; Morris erected by L. 1849, ch. 248.]

§ 35. The county of Chenango shall be divided into the towns ^{Chenango.}
of Bainbridge, Columbus, Coventry, Guilford, German, Greene,
Lincklæn, Macdonough, New-Berlin, Norwich, Otselic, Oxford,
Pharsalia, Pitcher, Plymouth, Preston, Sherburne, Smithville, and
Smyrna; (*also Afton, and North Norwich*).

[Afton erected by supervisors Nov. 18, 1857; North Norwich erected by L. 1849,
ch. 274.]

§ 36. The county of Broome shall be divided into the towns ^{Broome.}
of Chenango, Coleville, Conklin, Lisle, Sanford, Union, Vestal, and

¹ This town no longer exists.

² This town no longer exists; name changed to Otego by L. 1830, ch. 239.

³ The town first so called changed to Oneonta by L. 1830, ch. 239.

TITLE 4. Windsor; (also Binghamton, Fenton, Kirkwood, Triangle, Farker, Nanticoke, Maine and Binghamton City).

inghamton erected by supervisors Dec. 3, 1855, also Nov. 27, 1856; Fenton erected by supervisors Dec. 3, 1855, formerly Port Crane; changed to Fenton by L. 1867, ch. 158; Kirkwood erected by L. 1860, ch. 526; Triangle erected by L. 1831, ch. 160; Barker erected by L. 1831, ch. 160; Nanticoke erected by L. 1831, ch. 160; Maine erected by L. 1848, ch. 132; Binghamton City erected by L. 1867, ch. 291.

Cortland. § 37. The county of Cortland shall be divided into the towns of Cincinnatus, Freetown, Marathon, Homer, Preble, Scott, Solon, Truxton, Virgil and Willett; (also Taylor, Cortlandville, La Peer, Harford and Cuyler).

[Taylor erected by supervisors Dec. 5, 1849; Cortlandville erected by L. 1829, ch. 121; La Peer erected by L. 1859, ch. 517; Hartford erected by L. 1859, ch. 517; Cuyler erected by L. 1859, ch. 517.]

Tompkins. § 38. The county of Tompkins shall be divided into the towns of Caroline, Danby, Dryden, Enfield, Ithaca, Groton, Hector,¹ Lansing, Newfield, and Ulysses; (also Ithaca City).

[Ithaca City erected by L. 1838, ch. 212.]

Tioga. § 39. The county of Tioga shall be divided into the towns of Barton, Berkshire, Bigflats,* Catlin,* Cayuta,† Candor, Catherines,† Chemung,* Elmira,* Erin,* Newark, Nichols, Owego, Southport,* Spencer, Tioga, and Veteran;* (also Richford).

[Towns marked thus * are now in Chemung county, towns marked thus † were transferred to Chemung county and thence to Schuyler county. See acts creating those counties. Town of Richford erected by L. 1831, ch. 146, by the name of Arlington; name changed to Richford by L. 1832, ch. 95.]

Steuben. § 40. The county of Steuben shall be divided into the towns of Addison, Bath, Cameron, Canisteo, Cohocton, Dansville, Erwin, Greenwood, Hornby, Hornellsville, Howard, Jasper, Jersey,* Painted Post (now Corning), Plattsburg, Pulteney, Reading,* Troupsburgh, Tyrone,* Urbana, Wayne, Wheeler and Woodhull; (also Avoca, Bradford, Campbell, Caton, Fremont, Hartsville, Lindley, Rathbone, Thurston, Tuscarora, Wayland, West Union, and Hornellsville City).

[Towns marked thus * transferred to Schuyler county, the name of Jersey being first changed to Orange. See L. 1854, ch. 386, ante. The name of Painted Post changed to Corning by L. 1852, ch. 121; the town of Rathbone erected by L. 1856, ch. 62; of Fremont by L. 1855, ch. 581; Tuscarora by L. 1860, ch. 528; Bradford by L. 1836, ch. 163; Campbell by L. 1831, ch. 278; Lindley by L. 1837, ch. 403; Caton as Wormley by L. 1839, ch. 108; name changed to Caton by L. 1840, ch. 85; Avoca by L. 1843, ch. 99; Hartsville by L. 1854, ch. 4; Thurston by L. 1844, ch. 26; West Union by L. 1845, ch. 90; Wayland by L. 1848, ch. 289; Hornellsville City erected by L. 1838, ch. 40.]

Onondaga. § 41. The county of Onondaga shall be divided into the towns of Camillus, Cicero, Clay, Fabius, La Fayette, Lysander, Manlius, Marcellus, Onondaga, Otisco, Pompey, Salina, Spafford, and Tully; (also Elbridge, Van Buren, Skaneateles, De Witt, Geddes, and Syracuse City).

[Elbridge erected by L. 1829, ch. 79; Van Buren erected by L. 1829, ch. 79; Skaneateles erected by L. 1830, ch. 57; De Witt erected by L. 1835, ch. 33; Geddes erected by L. 1848, ch. 98; Syracuse City erected by L. 1847, ch. 475.]

Cayuga. § 42. The county of Cayuga shall be divided into the towns of Auburn,² Aurelius, Brutus, Cato, Conquest, Fleming, Genoa, Ira, Ledyard, Locke, Mentz, Owasco, Sennett, Scipio, Sempronius,

¹ Hector transferred to Schuyler county, L. 1854, ch. 386, ante.

² This town no longer exists.

Springport, Stirling, Venice and Victory; (*also Summer Hill, Moravia, Niles, Throop, Montezuma, and Auburn City*). TITLE 4.

[Summer Hill, formerly Plato, changed by L. 1832, ch. 44; Moravia erected by L. 1871, ch. 919; Niles erected by L. 1833, ch. 66; Throop erected by L. 1859, ch. 178; Montezuma erected by L. 1859, ch. 178; Auburn City erected by L. 1848, ch. 106.]

§ 43. The county of Seneca shall be divided into the towns of Seneca. Covert, Fayette, Junius, Lodi, Ovid and Romulus; (*also Seneca Falls, Tyre, Varick, and Waterloo*).

[Seneca Falls erected by L. 1829, ch. 77; Tyre erected by L. 1829, ch. 77; Varick erected by L. 1830, ch. 23; Waterloo erected by L. 1829, ch. 77.]

§ 44. The county of Ontario shall be divided into the towns of Ontario. Bloomfield,¹ Bristol, Canandaigua, Farmington, Gorham, Hopewell, Manchester, Naples, Phelps, Richmond, Seneca and Victor; (*also East Bloomfield, West Bloomfield, Geneva, Canadice, and South Bristol*).

[East and West Bloomfield formerly comprised Bloomfield. The same divided, and East and West Bloomfield erected, by L. 1833, ch. 23; Geneva erected by L. 1873, ch. 872; Canadice erected by L. 1843, ch. 129; South Bristol erected by L. 1838, ch. 62.]

§ 45. The county of Yates shall be divided into the towns of Yates. Barrington, Benton, Italy, Jerusalem, Middlesex, Milo and Starkey; (*also Torrey, and Potter*).

[Torrey erected by supervisors Nov. 14, 1851; Potter erected by L. 1832, ch. 329.]

§ 46. The county of Wayne shall be divided into the towns of Wayne. Arcadia, Butler, Galen, Lyons, Macedon, Marion, Ontario, Palmyra, Port-Bay,² Rose, Savannah, Sodus, Williamson and Wolcott; (*also Huron, and Walworth*).

[Huron, formerly Port-Bay, changed by L. 1834, ch. 36; Walworth erected by L. 1829, ch. 196.]

§ 47. The county of Livingston shall be divided into the towns Livingston of Avon, Caledonia, Conesus, Geneseo, Groveland, Leicester, Lima, Livonia, Mount-Morris, Sparta, Springwater, and York; (*also West Sparta, North Dansville, Nunda, Portage, and Ossian*).

[West Sparta erected by L. 1846, ch. 19; North Dansville erected by L. 1846, ch. 19; Nunda erected by L. 1846, ch. 197; Portage erected by L. 1846, ch. 197; Ossian erected by L. 1857, ch. 166.]

§ 48. The county of Monroe shall be divided into the towns Monroe. Brighton, Chili, Clarkson, Gates, Greece, Henrietta, Mendon, Ogden, Parma, Penfield, Perrington, Pittsford, Riga, Rush, Sweden, and Wheatland; (*also Hamlin, Irondequoit, Webster and Rochester City*).

[Hamlin, formerly Union, changed by L. 1861, ch. 29; Irondequoit erected by L. 1830, ch. 94; Webster erected by L. 1840, ch. 16; Rochester City erected by L. 1834, ch. 199.]

§ 49. The county of Genesee shall be divided into the towns of Genesee. Alabama, Alexander, Attica,* Batavia, Bethany, Bergen, Bennington,* Byron, Castile,* China,* Covington,* Elba, Gainesville,* Le Roy, Middlebury,* Orangeville,* Pembroke, Perry,* Stafford, Sheldon,* Warsaw,* and Wethersfield;* (*also Darien, Oakfield and Pavilion*).

[Towns marked thus * transferred to Wyoming county. See L. 1841, ch. 196. Subsequently China changed to Arcade, L. 1866, ch. 7; the town of Darien erected by L. 1832, ch. 18; the town of Pavillion by L. 1841, ch. 196, and the town of Oakfield by L. 1842, ch. 194.]

¹ This town no longer exists.
² This town no longer exists.

TITLE 4.
Orleans.

§ 50. The county of Orleans shall be divided into the towns of Barre, Carlton, Clarendon, Gaines, Murray, Ridgeway, Shelby, and Yates; (*also Kendall, and Albion*).

[Kendall erected by L. 1837, ch. 166; Albion erected by supervisors January 9, 1875.]

Niagara.

§ 51. The county of Niagara shall be divided into the towns of Cambria, Hartland, Lewiston, Lockport, New-Fane, Niagara, Pendleton, Porter, Royalton, Somerset, and Wilson; (*also Wheatfield, and Lockport City*).

[Wheatfield erected by L. 1836, ch. 313, as amended by ch. 382; Lockport city erected by L. 1865, ch. 865.]

Erie.

§ 52. The county of Erie shall be divided into the towns of Alden, Amherst, Aurora, Boston, Buffalo,* Clarence, Concord, Collins, Colden, Eden, Erie,* Evans, Hamburg, Holland, Sardinia, and Wales; (*also North Collins, Newstead, Marilla, Lancaster, Elma, Grand Island, West Seneca, Buffalo City, Brandt, Cheektowaga, East Hamburg, and Tonawanda*).

[Towns thus marked * no longer exist. North Collins (formerly Shirley) erected by supervisors November 24, 1852; name of Shirley changed to North Collins by L. 1853, ch. 456; Newstead (formerly Erie) changed by L. 1831, ch. 156; Marilla erected by supervisors December 2, 1853; Lancaster erected by L. 1833, ch. 67; Elma erected by supervisors December 4, 1856; Grand Island erected by supervisors October 19, 1852; West Seneca (formerly Seneca) erected by supervisors October 16, 1851; the name of town of Seneca was changed to West Seneca by L. 1852, ch. 98; Buffalo City erected by L. 1832, ch. 179; Brandt erected by L. 1839, ch. 91; Cheektowaga erected by L. 1839, ch. 24; East Hamburg erected by supervisors October 15, 1850; Tonawanda erected by L. 1836, ch. 147.]

Allegany

§ 53. The county of Allegany shall be divided into the towns of Allen, Alfred, Almond, Andover, Angelica, Belfast, Bolivar, Burns, Caneadea, Centreville, Cuba, Eagle,* Friendship, Grove, Haight,¹ Hume, Independence, Nunda,* Ossian,² Pike,* Portage,* Rushford, and Scio; (*also New Hudson, Willing, Wellsville, Birdsall, Amity, Ward, Genesee, West Almond, Clarksville, Wirt, Granger, and Alma*).

[The towns marked * thus transferred to Wyoming county in 1846. New Hudson (formerly Haight) changed by L. 1837, ch. 156; Willing erected by supervisors Nov. 19, 1851; Wellsville erected by L. 1856, ch. 208; Birdsall erected by L. 1829, ch. 261; Amity erected by supervisors Nov. 21, 1856; Ward erected by supervisors Nov. 21, 1856; Genesee erected by L. 1830, ch. 188; West Almond erected by L. 1835, ch. 91; Clarksville erected by L. 1835, ch. 303; Wirt erected by L. 1838, ch. 200; Granger (formerly West Grove) changed by L. 1839, chap. 54; Alma erected by supervisors Nov. 23, 1854.]

Cattaraugus.

§ 54. The county of Cattaraugus shall be divided into the towns of Ashford, Connewango, Ellicottville, Farmersville, Franklinville, Freedom, Great-Valley, Hinsdale, Little-Valley, Machias, Napoli, Olean, Otto, Perrysburgh, Randolph, and Yorkshire; (*also East Otto, Lyndon, New Albion, Mansfield, Allegany, Leon, Persia, Dayton, Humphrey, Coldspring, Portville, Carrollton, Ischua, South Valley, Red House, and Salamanca*).

[East Otto erected by supervisors Nov. 29, 1854; Lyndon erected by L. 1829, ch. 10; New Albion erected by L. 1830, ch. 49; Mansfield (formerly Cecilus) changed by L. 1831, ch. 197; Allegany (formerly Burton) changed by L. 1851, ch. 65; Leon erected by L. 1832, ch. 236; Persia erected by L. 1835, ch. 10; Dayton erected by L. 1835, ch. 10; Humphrey erected by L. 1836, ch. 814; Coldspring erected by L. 1837, ch. 90; Portville erected by L. 1837, ch. 268;

¹ This town is now New Hudson.

² Now in Livingston county.

Carrollton erected by L. 1842, ch. 68; Iechua (formerly Rice) changed by L. 1855, ch. 88; South Valley erected by L. 1847, ch. 52; Red House erected by L. 1870, ch. 809; Salamanca (formerly Bucktooth) changed by L. 1862, ch. 292.]

TITLE 4.

§ 55. The county of Chautauque shall be divided into the towns of Busti, Carrol, Chautauque, Clymer, Ellery, Ellicott, Ellington, Gerry, Hanover, Harmony, Mina, Pomfret, Portland, Ripley, Sheridan, Stockton and Villenova; (also Kiantone, Westfield, Charlotte, French Creek, Arkwright, Cherry Creek, Poland, Sherman, Dunkirk City, and Jamestown City).

Chautauque.

[Kiantone erected by supervisors Nov. 16, 1853; Westfield by L. 1829, ch. 59; Charlotte by L. 1829, ch. 185; French Creek by L. 1829, ch. 223; Arkwright by L. 1829, ch. 321 as modified by L. 1830, ch. 215; Cherry Creek by L. 1829, ch. 365; Poland by L. 1832, ch. 98; Sherman by L. 1832, ch. 161; Dunkirk town by L. 1860, ch. 525; incorporated as a city L. 1880, ch. 10, § 6; L. 1885, ch. 396; Jamestown city by L. 1886, ch. 84.]

§ 56. All lines which in the foregoing bounds of the several towns in this state, are described by courses indicated by the magnetic needle, are respectively to be taken as the magnetic needle pointed at the several times when such lines were originally established.

Magnetic needle.

§ 57. None of the bounds or lines assigned for the limits of any of the said towns, shall be construed to affect the right or title of any person or body politic, or to confirm the bounds or right of any patent whatsoever.

Descriptions not to affect private rights.

§ 58. Whenever two towns are separated from each other by a river, creek or lake, the middle of the channel of such river, creek or lake, shall be the division line between them, unless hereinbefore otherwise provided.

Towns separated by a river, &c. 6 J. R., 133.

§ 59. Whenever the boundary line between two towns crosses an island, the whole of such island shall be deemed to be within the town in which the greater part of it lies, unless hereinbefore otherwise provided.

Islands intersected by town lines.

Towns in counties erected since the Revised Statutes.

[The county of Chemung is divided into the towns of Ashland,¹ Baldwin,² Big Flats,³ Catlin,⁴ Chemung,⁵ Elmira,⁶ Erin,⁷ Horseheads,⁸ Southport,⁹ Van Etten,¹⁰ Veteran,¹¹ and Elmira City.¹²

The county of Fulton is divided into the towns of Bleecker,¹³ Broadalbin,¹⁴ Caroga,¹⁵ Ephratah,¹⁶ Johnstown,¹⁷ Mayfield,¹⁸ Northampton,¹⁹ Oppenheim,²⁰ Perth,²¹ Stratford.²²

The county of Wyoming is divided into the towns of Arcade,²³ Attica,²⁴ Bennington,²⁵ Castile,²⁶ Covington,²⁷ Eagle,²⁸ Gainesville,²⁹ Genesee Falls,³⁰ Java,³¹ Middlebury,³² Orangeville,³³ Perry,³⁴ Pike,³⁵ Sheldon,³⁶ Warsaw,³⁷ Wethersfield.³⁸

The county of Schuyler is divided into the towns of Catharine,³⁹ Cayuta,⁴⁰ Dix,⁴¹ Hector,⁴² Montour,⁴³ Orange,⁴⁴ Reading,⁴⁵ Tyrone.⁴⁶]

¹ Erected by L. 1867, ch. 793.

² Erected by L. 1866, ch. 114.

³ Transferred from Tioga county.

⁴ Erected by L. 1854, ch. 25.

⁵ Erected by L. 1854, ch. 386.

⁶ Erected by L. 1864, ch. 139.

⁷ Erected by L. 1831, ch. 99.

⁸ Transferred from Montgomery county.

⁹ Erected by L. 1843, ch. 171.

¹⁰ Erected by L. 1838, ch. 332.

¹¹ Formerly China; transferred from Genesee county; name changed by L. 1866, ch. 7.

¹² Transferred from Genesee county.

¹³ Transferred from Allegany county.

¹⁴ Erected by L. 1846, ch. 51.

¹⁵ Erected by L. 1832, ch. 189.

¹⁶ Formerly in Chemung county. See L. 1854, ch. 386.

¹⁷ Formerly in Tioga, and then in Chemung county; erected by L. 1835, ch. 98.

¹⁸ Transferred from Tioga county.

¹⁹ Erected by L. 1860, ch. 56.

²⁰ Formerly part of Jersey, in Steuben county; changed by L. 1833, ch. 163.

²¹ Formerly in Steuben county.

TITLE 5.TITLE V.**Of the several Cities in this State.*

- SEC. 1. Bounds and divisions of the city of New York.
 2. Ib. city of Albany.
 3. Ib. city of Hudson.
 4. Ib. city of Schenectady.
 5. Ib. city of Troy.
 6. Lines to be taken as needle pointed at time of their establishment.
 7. Rights of parties not to be affected.

[Sections 1-5 of this title are omitted, as superseded by subsequent laws.]

Lines to be taken as needle pointed at time of their establishment.

Rights of parties not to be affected.

§ 6. All lines, which, in the bounds of the said cities or wards are described by courses indicated by the magnetic needle, are respectively to be taken as the magnetic needle pointed at the several times when such lines were originally established.

§ 7. None of the bounds or lines assigned for the limits of any of the said cities or wards, shall be construed to affect the right or title of any person or body politic, or to confirm the bounds or right of any patent whatsoever.

[The following note is contained in the first edition of the R. S.]

[The preceding fourth and fifth Titles of Chapter II, of the First Part of the Revised Statutes, were passed on the 3d of December, 1827, being included in the Act "concerning the territorial limits and divisions, the civil polity, and the internal administration of the state," approved and signed on that day, by De Witt Clinton, Governor of the State.]

- Albany, charter of colonial governor, 1686.
 Amsterdam, L. 1885, ch. 131.
 Auburn, L. 1848, ch. 106.
 Binghamton, L. 1867, ch. 291.
 Brooklyn, L. 1834, ch. 92.
 Buffalo, L. 1832, ch. 179.
 Cohoes, L. 1869, ch. 912.
 Dunkirk, L. 1880, ch. 19, § 6.
 Elmira, L. 1864, ch. 139.
 Hornellsville, L. 1888, ch. 40.
 Hudson, L. 1785, ch. 83.
 Ithaca, L. 1888, ch. 212.
 Jamestown, L. 1886, ch. 84.
 Kingston, L. 1872, ch. 150.
 Lockport, L. 1865, ch. 365.
 Long Island City, L. 1870, ch. 719.
 Middletown, L. 1888, ch. 535.
 Newburgh, L. 1865, ch. 541.
 New York, charter of colonial governor, 1686.
 Ogdensburg, L. 1868, ch. 335.
 Oswego, L. 1848, ch. 116.
 Poughkeepsie, L. 1854, ch. 90.
 Rochester, L. 1834, ch. 199.
 Rome, L. 1870, ch. 25.
 Schenectady.
 Syracuse, L. 1847, ch. 475.
 Troy, L. 1816, ch. 131.
 Utica, L. 1832, ch. 19.
 Watertown, L. 1869, ch. 714.
 Yonkers, L. 1872, ch. 866.

* The various statutes giving the boundaries and divisions of the several cities of the state are omitted, because they are necessarily local in their character, and because they are too voluminous to properly find a place in this edition. A list of the existing cities is, however, appended, together with a statement of the laws incorporating each.

TITLE 6.

TITLE VI.

General Provisions Concerning the Erection and Alteration of Counties, Cities, Villages and Towns.

1. Applicants for new counties, cities, or villages, or the alteration of their bounds, to publish notice and furnish a map.
2. Map to be verified by the oath of the surveyor.
3. If application granted, map to be filed with surveyor-general.
4. Applicants for new towns, or alterations or divisions of towns, to affix notice previous to town meeting.
5. Notice to be read at town meeting.
6. Surveys and maps to be furnished.

SECTION I. All persons intending to apply to the legislature for the erection of a new county, or for the incorporation of a city or village, or for any alteration of the bounds of any county, city, or village; shall cause notice to be published of such intended application, as required by law; and shall also procure an accurate survey and map of the territory described in such application.

Certain applicants to publish notice and furnish map.

§ 2. Such survey and map shall be duly verified by the oath of the surveyor making the same; and shall be laid before the legislature, before any such application shall be acted on.

Map, how verified.

§ 3. In case any law shall be passed by the legislature, pursuant to such application, the aforesaid survey and map shall be filed in the office of the surveyor-general of this state.

Where filed.

§ 4. No town in this state shall be divided or altered in its bounds, nor shall any new town be erected, without an application to the legislature by the inhabitants of such town so to be divided or altered, or of the several towns out of which such new town is to be erected, or some of them; and notice in writing of such intended application, subscribed by at least five persons resident and freeholders in such town or towns shall be affixed on the outer door of the house where the next town meeting is to be held in each of the towns to be affected thereby, at least ten days previous to the town meeting in each of those towns.¹

Notice of applications to erect towns, &c., where affixed.

§ 5. A copy of such notice shall also be read at the town meeting of every town to be affected thereby, to the electors there assembled, by the clerk of the town, immediately before proceeding to the election of town officers.

To be read at town meetings.

§ 6. The persons applying for the division or alteration of the bounds of any town, or for the erection of a new town, shall also procure such survey and map as is required in the first section of this title, which shall be laid before the legislature, and filed with the surveyor-general, as above provided.

Map and survey.

[This title is taken chiefly from 1 R. L., p. 269, § 2, and 2 R. L., 135, § 25.]

¹ Sections 4-6 of the foregoing title are given, inasmuch as they have not been expressly repealed, although they are probably to be deemed superseded by subsequent acts conferring powers upon boards of supervisors. See L. 1849, ch. 194; L. 1876, ch. 482; and acts amending the same, *post*, ch. 12.

[Supplementary Title.]

TITLE 6^A.*Of the Assembly Districts.***L. 1879, Chap. 208—An act to organize the senate districts and for the apportionment of the members of assembly of this state.**

[Section 1 is contained in a previous portion of this chapter.]

Members of assembly. § 2. The number of members of assembly of this state hereafter to be chosen in the several counties thereof shall be as follows :

- In the county of Albany, four.
- In the county of Allegany, one.
- In the county of Broome, one.
- In the county of Cattaraugus, two.
- In the county of Cayuga, two.
- In the county of Chautauqua, two.
- In the county of Chemung, one.
- In the county of Chenango, one.
- In the county of Clinton, one.
- In the county of Columbia, one.
- In the county of Cortland, one.
- In the county of Delaware, one.
- In the county of Dutchess, two.
- In the county of Erie, five.
- In the county of Essex, one.
- In the county of Franklin, one.
- In the counties of Fulton and Hamilton, one.
- In the county of Genesee, one.
- In the county of Greene, one.
- In the county of Herkimer, one.
- In the county of Jefferson, two.
- In the county of Kings, twelve.
- In the county of Lewis, one.
- In the county of Livingston, one.
- In the county of Madison, one.
- In the county of Monroe, three.
- In the county of Montgomery, one.
- In the county of New York, twenty-four.
- In the county of Niagara, two.
- In the county of Oneida, three.
- In the county of Onondaga, three.
- In the county of Ontario, one.
- In the county of Orange, two.
- In the county of Orleans, one.
- In the county of Oswego, two.
- In the county of Otsego, two.
- In the county of Putnam, one.
- In the county of Queens, two.
- In the county of Rensselaer, three.
- In the county of Richmond, one.
- In the county of Rockland, one.

In the county of St. Lawrence, three.
 In the county of Saratoga, two.
 In the county of Schenectady, one.
 In the county of Schoharie, one.
 In the county of Schuyler, one.
 In the county of Seneca, one.
 In the county of Steuben, two.
 In the county of Suffolk, one.
 In the county of Sullivan, one.
 In the county of Tioga, one.
 In the county of Tompkins, one.
 In the county of Ulster, three.
 In the county of Warren, one.
 In the county of Washington, two.
 In the county of Wayne, two.
 In the county of Westchester, three.
 In the county of Wyoming, one.
 In the county of Yates, one.

Supervisors to divide counties into assembly districts. § 3. The supervisors of each of the aforesaid counties, which are, by the provisions of this act, entitled to more than one member of assembly, except in the city and county of New York, and in said city and county, the board of aldermen of said city, shall meet on the third Tuesday of June next, at the place where their meetings were last held; they shall organize by appointing one of their number as chairman and another as secretary, and shall proceed to divide their respective counties into so many assembly districts as they are entitled respectively to members of assembly under this act, and shall thereupon make their certificates respectively, containing a description of each assembly district, specifying the number of such district, and the population thereof, according to the last state census. Said certificate shall be signed by a majority of such supervisors respectively, except in the city and county of New York, and in said city and county by a majority of the board of aldermen of said city, and they shall cause duplicate certificates to be filed in the office of the secretary of state and the office of the clerk of their respective counties.

[For other provisions on this subject, see chap. 7, title 1, *post.*]

[Supplementary Title.]

TITLE 6^B.

Of the Judicial Districts.

L. 1847, chap. 241 — An act to divide the state into judicial districts.

Judicial districts. SECTION 1. The state is hereby divided into eight judicial districts, pursuant to the provisions of the fourth section of the sixth article of the constitution, which districts shall be arranged as follows:

First. The first judicial district shall consist of the city and county of New York:

Second. The second judicial district shall consist of the counties of Richmond, Suffolk, Queens, Kings, Westchester, Orange, Rockland, Putnam and Dutchess:

Third. The third judicial district shall consist of the counties of Columbia, Sullivan, Ulster, Greene, Albany, Schoharie and Rensselaer :

Fourth. The fourth judicial district shall consist of the counties of Warren, Saratoga, Washington, Essex, Franklin, St. Lawrence, Clinton, Montgomery, Hamilton, Fulton and Schenectady :

Fifth. The fifth judicial district shall consist of the counties of Onondaga, Oneida, Oswego, Herkimer, Jefferson and Lewis :

Sixth. The sixth judicial district shall consist of the counties of Otsego, Delaware, Madison, Chenango, Broome, Tioga, Chemung, Tompkins and Cortland :

Seventh. The seventh judicial district shall consist of the counties of Livingston, Wayne, Seneca, Yates, Ontario, Steuben, Monroe and Cayuga :

Eighth. The eighth judicial district shall consist of the counties of Erie, Chautauqua, Cattaraugus, Orleans, Niagara, Genesee, Allegany and Wyoming.

20 N. Y., 452.

L. 1857, Chap. 485 — An act to annex the county of Schuyler to the sixth judicial district, and to provide for courts therein.

Schuyler county added to sixth judicial district. SECTION 1. The county of Schuyler is hereby annexed to and shall form a part of the sixth judicial district of this state.

[Remainder of the section omitted as obsolete.]

L. 1876, Chap. 24 — An act to alter the first and second judicial districts of the state as established by chapter two hundred and forty-one of the laws of eighteen hundred and forty-seven, entitled "An act to divide the state into judicial districts," so as to conform the same to the boundaries of the city of New York and of the county of Westchester as now constituted by law.

First judicial district altered. SECTION 1. The first judicial district of the state shall consist of the city of New York, as the same has been constituted by law since the first day of January, eighteen hundred and seventy-four. The second judicial district shall consist of the counties of Richmond, Suffolk, Queens, Kings, Westchester, as the same has been constituted by law since the first day of January, eighteen hundred and seventy-four, Orange, Rockland, Putnam and Dutchess.

[The effect of this provision was to enlarge the first and diminish the second judicial district in accordance with the transfer from Westchester to New York county, of the towns of West Farms, Morrisania, and Kingsbridge, by L. 1873, ch. 613.]

L. 1883, Chap. 329—An act to provide for organizing in the supreme court five general terms thereof, and for the election of justices of that court in addition to the justices now in office.

Judicial departments; general terms to be held by justices to be designated by governor.

SECTION 1. The state is hereby divided into five judicial departments. The first department shall consist of the first judicial district; the second department of the second judicial district; the third department of the third and fourth judicial districts; the fourth department of the fifth and sixth judicial districts; and the fifth department of the seventh and eighth judicial districts. On and after the first Monday in June, in the year one thousand eight hundred and eighty-four, there shall be a general term of the supreme court in each judicial department hereby created, composed of a presiding justice and not less than two nor more than three associate justices who shall be designated by the governor from the whole bench of justices for the times and in the manner provided by law for designating presiding and associate justices to hold general terms in the judicial departments now existing; providing, however, that those designated to hold general terms under existing laws who shall be such on the first Monday of June, eighteen hundred and eighty-four, shall be presiding justices and associate justices of the general terms organized under this act in the department hereby created in which they shall respectively reside, or in which they shall then be such presiding and associate justices, during the term for which they shall have been so designated, except that the additional presiding justice required by this act may be designated from such associate justices, and in the fourth department there shall be not more than two associate justices of the said general term; but upon the application of two of the judges of the general term of the fourth department the governor may appoint a third associate justice to serve for any particular term.

Pending causes transferred; governor to appoint general terms; existing general terms to meet and dispose of causes. § 2. On the said first Monday in June, eighteen hundred and eighty-four, all causes and matters then pending in the general terms of the supreme court organized under existing laws, and all matters which according to law might be brought before them, are hereby transferred to and shall be cognizable before the general terms organized under this act, in the judicial department in which the venue of such causes and matters is laid. In the cases in which existing judicial departments are hereby divided, the governor, on or before the first Monday of June, eighteen hundred and eighty-four, shall appoint in the manner provided by section two hundred and thirty-four of the Code of Civil Procedure, such general terms of the supreme court in the departments hereby created as in his opinion public interest will require to be held during the year eighteen hundred and eighty-four. The general terms which shall exist immediately prior to the said first Monday of June, eighteen hundred and eighty-four, shall meet on some day, which may be either before or after said first Monday, and which may be designated by the justices composing the same, for the purpose of deciding or otherwise disposing of the causes and matters which may have been argued before or submitted to them. Appeals may be taken from the judgments and orders entered in such decisions in the same manner as in like cases from judgments and orders of the general terms organized under this act. [*Thus amended by L. 1884, ch. 311.*]

Election of justices. § 3. At the general election to be held in this state on the sixth day of November, in the year one thousand eight hundred and eighty-three, there shall be elected by the electors of the first judicial district, two justices of the supreme court of the state of New York; by the electors of the second judicial district, one justice of said court; by the electors of the third judicial district, one justice of said court; by the electors of the fourth judicial district, one justice of said court; by the electors of the fifth judicial district, two justices of said court;

by the electors of the sixth judicial district, one justice of said court; by the electors of the seventh judicial district, two justices of said court; and by the electors of the eighth judicial district, two justices of said court.

Vacancies. § 4. Vacancies in office of the justices so elected shall be filled, and the successors in office of such justices shall be elected, as provided in article six of the constitution of the state.

Repeal. § 5. All acts and parts of acts inconsistent with this act are hereby repealed.

CHAPTER III.

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OF THE CENSUS OR ENUMERATION OF THE INHABITANTS OF THE STATE.

[This chapter of the Revised Statutes was repealed by the general provisions of L. 1845, ch. 140, § 17, and specifically by L. 1855, ch. 64, § 18. The act of 1845 has never been specifically repealed, but the act of 1855, which immediately follows, appears to supersede it, and the editor has been officially informed that it has been disregarded, as practically abrogated, in taking the censuses of 1865 and 1875. It is therefore omitted here.]

L. 1855, Chap. 64 — An act in relation to the census or enumeration of the inhabitants of this state.

[Throughout this act, the word "marshal" has been replaced by the word "enumerator," as directed by L. 1865, ch. 34, *post.*]

Census. SECTION 1. An enumeration of the inhabitants of this state shall be taken during the present year, eighteen hundred and fifty-five, and during every tenth year hereafter.

Blanks. § 2. The secretary of state shall, as soon as may be after the passage of this act, and also in every tenth year hereafter, cause uniform blank returns and abstracts, together with copies of this act, to be printed, for the purpose of taking such enumeration and obtaining other statistical information.

Returns to be sent to county clerks. § 3. The secretary of state shall, on or before the first day of May next, and on or before the first day of May in every such tenth year hereafter, transmit, in such manner as he may think proper, to each of the county clerks, twice as many of such blank returns and as many copies of this act as there are election districts in their respective counties.

Enumerators. § 4. On or before the first Monday of May next, and on or before the first Monday of May in every such tenth year hereafter, the secretary of state shall appoint and *one or more enumerators in and for each town and ward in this state, as the case may be, and who shall have been a resident of such ward or town at least one year before such appointment, whose duty it shall be to enumerate the inhabitants therein, and to perform the other duties prescribed by this act. A certificate of such appointment, under the hand of the secretary of state, shall be made, in which certificate the district assigned to the person so appointed shall be described; and such certificate shall be delivered to the person appointed, and which shall be evidence of the facts therein contained. [*Thus amended by L. 1855, ch. 181.*]

County clerk's duties. § 5. It shall be the duty of each county clerk, on or before the fifteenth day of May next, and on or before the fifteenth day of May in every such tenth year hereafter, to forward to the town clerk of each of the towns in his county, and to the clerk of the common council in each of the cities, a sufficient number of the blank returns and copies of this act, so as aforesaid transmitted to him by the secretary of state, to supply each enumerator of such town or city, on demand, with duplicate sets of said blank returns, and one copy of this act.

Census, when to be taken. § 6. On the first day of June next, and on the first day of June in every such tenth year hereafter, every such enumerator shall proceed to enumerate, truly and accurately, the inhabitants residing in the ward, town or district for which he shall have been appointed, by making actual inquiry at every dwelling-house or of the head of every family residing therein, and to

* Thus left by the amendment.

obtain the statistical information required by this act, by such convenient means as may be in his power. [*Thus amended by L. 1875, ch. 40.*]

Enumerator's duties. § 7. Each enumerator shall enter in the blank return received, the particulars of the enumeration so made, and of the statistical information so obtained, in the manner and form prescribed by the secretary of state.

Who to be enumerated. § 8. Every person whose usual place of abode shall be in any family on the first day of June next, and on the first day of June in every such tenth year hereafter, shall be returned as of such family; and every person casually absent at the time of taking the enumeration, as belonging to that place in which he usually resides.

Returns, how certified. § 9. The returns so made out shall be certified, by each enumerator taking the enumeration, to be true and accurate to the best of his knowledge and belief, and shall state the number of pages of which it consists, which certificate shall be subscribed and sworn to by him before any officer authorized to administer oaths, who shall certify such attestation without charging any fee therefor.

Returns to be made by first day of July. § 10. Each enumerator shall, on or before the first day of July next, and on or before the first day of July in every such tenth year hereafter, cause the returns so certified, with a duplicate copy thereof carefully made and compared, and certified in the manner above specially provided, to be delivered to the county clerk of the county in which such marshal shall reside.

County clerk to transmit returns to secretary. § 11. Each county clerk shall, immediately after receiving such certified statements of the enumeration, and other statistical information, and the duplicate copies of the same from the enumerators in the several towns or districts of his county, transmit to the secretary of state at Albany, by express, all the duplicate returns filed in his office, carefully boxed in such a manner as to protect them; and if any enumerator shall neglect for five days after the first of July to make his returns as aforesaid, the clerk of the county in which he shall reside, shall immediately proceed himself or dispatch a messenger to procure such return and duplicate, and the expense thereof shall be deducted from the account of such enumerator, by the board of supervisors of the county in which he may reside, if they shall think proper.

Secretary's report. § 12. The secretary of state, after receiving such duplicate returns, shall prepare and report to the legislature a general account of the enumeration, specifying the result thereof in the several towns, wards, cities and counties of the state, with a full recapitulation of the whole.

[Sec. 13 was repealed by L. 1865, ch. 34, *post.*]

Vacancies. § 14. In case of the inability or neglect of any enumerator appointed under or by virtue of this act to perform his duties, the secretary of state shall have full power, and it shall be his duty forthwith, to appoint another enumerator in his stead. [*Thus amended by L. 1855, ch. 181.*]

Penalty for refusing to give information. § 15. Any person being the head of a family or member thereof, above the age of twenty-one years, who shall refuse to give to any enumerator the information required by him, relative to any of the particulars which such enumerator is required to state in his returns concerning such family or person, or who shall willfully give false information to such enumerator concerning the same, shall forfeit and pay a penalty of fifty dollars, to be sued for and recovered with costs of suit, by and in the name of the supervisor of their respective towns, and shall be paid over to the town superintendent, for the benefit of the common schools of such town; except in the city of New York, such suit and recovery shall be in the name of the mayor, aldermen and commonalty of the said city, and such penalty shall be paid over to the board of education for the benefit of common schools in said city.

Census of Indians. § 16. It shall be the duty of the secretary of state to appoint suitable persons to take the enumeration of the Indians residing on the several

reservations in this state, who shall, in respect to such reservations, perform all the duties of enumerator by this act, and shall also return the number of acres of land cultivated by such Indians, and such other statistics as it may be in their power to collect, and as the secretary of state, in his instructions shall prescribe; for which service they shall be paid out of the treasury, upon the warrant of the comptroller, such suitable compensation, not exceeding two dollars per day, as the secretary shall certify to be just. All expenses incurred by the secretary of state executing this act, shall be paid by the treasurer upon the warrant issued by the comptroller.

County clerk to cause returns to be bound. § 17. It shall be the duty of each county clerk in this state, on or before the first day of January next, and the first day of January following such tenth year, to cause all the original returns filed in his office by the respective enumerators to be properly arranged by towns or wards and well bound up in one or more volumes, and carefully preserved among the records of his office; and if it has not already been done, he shall cause the returns of the United States census of eighteen hundred and fifty to be bound and preserved in like manner, and also the returns of any future census which the United States may hereafter take.

Repeal. § 18. The third chapter of the fifth title of the first part of the Revised Statutes, entitled "of the census or enumeration of the inhabitants of the state," and also chapter two hundred and thirty-nine of the Laws of eighteen hundred and fifty-four, entitled "An act to amend an act relative to the census or enumeration of the inhabitants of this state, passed May 7, 1845," are hereby repealed.

L. 1855, Chap. 181 — An act to amend the act in relation to the census or enumeration of the inhabitants of this state, passed March 12, 1855.

[Sections 1 and 2 amend the foregoing act, L. 1855, ch. 64.]

Compensation of enumerators. § 3. The compensation of enumerators shall be three dollars for each day actually and necessarily employed in making the enumeration and preparing the duplicate copy of the returns, which amount shall be audited by the supervisors of the county where such services are performed, and shall be assessed, collected, and paid as a part of the contingent expenses of such county; but no such account shall be allowed unless the secretary of state shall have notified the clerk of the board of supervisors of the receipt and acceptance of the returns for which the compensation is claimed. [*Thus amended by L. 1865, ch. 34.*]

L. 1865, Chap. 34 — An act to amend chapter sixty-four of the Laws of eighteen hundred fifty-five, entitled "An act in relation to the census or enumeration of the inhabitants of this state," and chapter one hundred and eighty-one of the laws of eighteen hundred fifty-five, amendatory thereto.

Name of officer. SECTION 1. The term "enumerator" shall be used in place of "marshal," in each place where it occurs in the acts entitled "An act in relation to the census or enumeration of the inhabitants of this state," and chapter one hundred and eighty-one of the laws of eighteen hundred fifty-five, amendatory thereto.

[Sections 2 and 3 amend the foregoing acts, L. 1855, ch. 64, and ch. 181.]

Pay of other officers. § 4. The county and town clerks required to perform duties in relation to the census shall be allowed a just and reasonable compensation for their expenses and services, which shall be audited by the supervisors of the county where such services are performed, and shall be assessed, collected, and paid as a part of the contingent expenses of the county in which they reside.

CHAPTER IV.

OF THE RIGHTS OF THE CITIZENS AND INHABITANTS
OF THIS STATE.[Supplement to Chapter 4.
Of Indians within the state.]

- Sec.** 1. All authority derived from the people.
 2. Taxes how levied.
 3. Right to keep arms.
 4. When citizens may be compelled to perform military service.
 5. Certain persons to be excused from service.
 6. Quarters of soldiers.
 7. Rights of citizens secured.
 8. Trial by jury preserved ; new courts to proceed according to the course of the common law.
 9. Religious worship to be free.
 10. The writ of *habeas corpus* not to be suspended.
 11. Search warrants regulated.
 12. Accusations for criminal offences, how to be made.
 13. Principles of civil liberty declared respecting proceedings in criminal cases, and concerning the private right of property.
 14. Rights of persons accused of crimes.
 15. Justice to be speedily administered, and process to be granted to all persons.
 16. Fines to be reasonable and proportioned to the offence.
 17. Excessive bail not to be required, nor unusual punishments inflicted.
 18. Elections to be free ; no one to be disturbed in voting.
 19. Right of petitioning declared.
 20. Liberty of speech and of the press declared.
 21. Truth to be given in evidence in prosecutions for libels, and jury to determine both law and fact.

All authority derived from the people.

SECTION I. No authority can, on any pretence whatsoever, be exercised over the citizens of this state, but such as is or shall be derived from and granted by the people of this state.

[1 R. L., 47, § 1.]

Taxes how levied.

§ 2. No tax, duty, aid or imposition whatsoever, except such as may be laid by a law of the United States, can be taken or levied within this state, without the grant and assent of the people of this state, by their representatives in senate and assembly ; and no citizen of this state can be by any means compelled to contribute to any gift, loan, tax, or other like charge, not laid or imposed by a law of the United States, or by the legislature of this state.

[1 R. L., 48, § 12.]

Right to keep arms.

§ 3. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms cannot be infringed.

[2d amendt. Const. U. S.]

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Military service by citizens.

§ 4. No citizen of this state can be constrained to arm himself, or to go out of this state, or to find soldiers or men of arms, either horsemen or footmen, without the grant and assent of the people of this state, by their representatives in senate and assembly,

except in the cases specially provided for by the constitution of the United States.

[1 R. L., 48, § 12.]

§ 5. All such inhabitants of this state of any religious denomination whatever, as from scruples of conscience may be averse to bearing arms, are to be excused therefrom by paying to the state an equivalent in money; and the legislature is required to provide by law for the collection of such equivalent, to be estimated according to the expense, in time and money, of an ordinary able-bodied militia-man.

Who to be excused.

[Const., art. 7, § 5.]

§ 6. No soldier can in time of peace be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

Quartering soldiers.

[1 R. L., 48, § 13; 3d amendt. to Const. U. S.]

§ 7. No member of this state can be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

Rights secured.

[1 R. L., 47, §§ 2 and 5; Const., art. 1, § 1.]

§ 8. The trial by jury, in all cases in which it has heretofore been used, is to remain inviolate forever; and no new court can be instituted but such as shall proceed according to the course of the common law, except such courts of equity, as the legislature, by the constitution of this state, is authorized to establish.

Trial by jury. New courts, &c.

[Const., art. I, § 2.]

§ 9. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, is forever to be allowed in this state to all mankind; but the liberty of conscience so secured, is not to be so construed, as to excuse acts of licentiousness, or to justify practices inconsistent with the peace or safety of this state.

Religious worship.

[Const., art. I, § 3.]

§ 10. The privilege of the writ of *habeas corpus* cannot be suspended, unless when in cases of rebellion or invasion, the public safety may require its suspension.

Writ of habeas corpus.

[Const., art. 1, § 4.]

§ 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, ought not to be violated; and no warrants can issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Search warrants. 39 Barb., 57.

[4th amendt. Const. U. S.]

§ 12. No person can be held to answer for a capital or otherwise infamous crime (except in cases of impeachment; and in cases of the militia when in actual service, and of the land and naval forces in time of war, or which this state may keep, with the consent of congress, in time of peace; and in cases of petit larceny, under the regulation of the legislature), unless on presentment or indictment

Accusations of crimes.

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3 N. Y.
Crim. R.,
70; 35 Hun,
519.

of a grand jury; and in every trial on impeachment or indictment, the party accused is to be allowed counsel as in civil actions, or he may appear and defend in person.

[Const., art. I, § 6.]

Criminal
proceed-
ings.
Private
property,
43 Hun, 106.

§ 13. No person can be subject for the same offence, to be twice put in jeopardy of life or limb; nor can he be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property, without due process of law; nor can private property be taken for public use, without just compensation.

[Const., art. I, § 6.]

Rights of
accused
persons.

§ 14. In all criminal prosecutions, the accused has a right to a speedy and public trial, by an impartial jury, and is entitled to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; and to have compulsory process for obtaining witnesses in his favor.

[6th amendt. Const. U. S.]

Justice to
be speedy.
Process.

§ 15. Neither justice nor right should be sold to any person, nor denied, nor deferred; and writs and process ought to be granted freely and without delay, to all persons requiring the same, on payment of the fees established by law.

[1 R. L., 48, § 6.]

Fines.

§ 16. No citizen of this state ought to be fined or amerced without reasonable cause, and such fine or amercement should always be proportioned to the nature of the offence.

[1 R. L., 48, § 7.]

Bail, &c.
1 Edm. Sel.
Cas., 245.

§ 17. Excessive bail ought not to be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

[1 R. L., 48, § 8; 8th amendt. to Const. U. S.]

Elections.

§ 18. All elections ought to be free; and no person by force of arms, malice, menacing, or otherwise, should presume to disturb or hinder any citizen of this state in the free exercise of the right of suffrage.

[1 R. L., 48, § 9.]

Right to
petition.

§ 19. It is the right of the citizens of this state to petition the governor, or either house of the legislature; and all commitments and prosecutions for such petitioning are illegal.

[1 R. L., 48, § 10.]

Liberty of
speech, &c.
6 Barb., 58.

§ 20. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law can be passed to restrain or abridge the liberty of speech or of the press.

[Const., art. I, § 8.]

Prosecu-
tions for
libel, pro-
ceedings.

§ 21. In all prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party is to be acquitted and the jury have the right to determine the law and the fact.

[Const., art. I, § 8.]

L. 1873, Chap. 186 — An act to provide for the protection of citizens in their civil and public rights.

[Sections 1 and 2 repealed by L. 1886, ch. 593.]

Repeal. § 3. Discrimination against any citizen on account of color, by the use of the word "white," or any other term in any law, statute, ordinance or regulation now existing in this state, is hereby repealed and annulled.

11 Abb. N. C., 187; 28 Alb. L. J., 471; 43 Hun, 538; 98 N. Y., 438.

L. 1878, Chap. 212 — An act to establish the right of citizens of this state to carry on their business in all parts thereof.

Discrimination against residents of other parts of state. SECTION 1. It shall not be lawful for the authorities of any county, city or village, to impose upon the inhabitants of any other county, city or village within this state, carrying on or desiring to carry on, any lawful trade, business or calling within the limits thereof, any restriction or condition whatever, except such as may be necessary for the proper regulation of such trade, business or calling, and such as apply equally and impartially to the citizens of all parts of the state alike, and all ordinances in violation of the provisions of this act are hereby declared to be null and void. But the provisions of this act shall not apply to the ordinances or regulations of any county, city or village in this state, in reference to travelling circuses, shows and exhibitions. [*Thus amended by L. 1879, ch. 417.*]

L. 1880, Chap. 298 — An act to protect the rights of citizens of this state owning and holding claims against other states.

Citizens having claims against other states may assign claim to state. SECTION 1. Any citizen of this state, being the owner and holder of any valid claim against any of the United States of America, arising upon a written obligation to pay money, made, executed and delivered by such state, which obligation shall be past due and unpaid, may assign the same to the state of New York, and deliver the assignment thereof to the attorney-general of the state. Such assignment shall be in writing, and shall be duly acknowledged before an officer authorized to take the acknowledgment of deeds, and the certificate of such acknowledgment shall be duly indorsed upon such assignment before the delivery thereof. Every such assignment shall contain a guaranty, on the part of the assignor, to be approved by the attorney-general, of the expenses of the collection of such claim, and it shall be the duty of the attorney-general, on receiving such assignment, to require, on behalf of such assignor, such security for said guaranty, as he shall deem adequate.

Attorney-general to prosecute action. § 2. Upon the execution and delivery of such assignment in the manner provided for in section one of this act, and furnishing the security as in said section provided, and the delivery of such claim to him, the attorney-general shall bring and prosecute such action or proceeding

in the name of the state of New-York, as shall be necessary for the recovery of the money due on such claim, and the said attorney-general shall prosecute such action or proceeding to final judgment, and shall take such proceedings after judgment as may be necessary to effectuate the same.

Proceeds to be delivered to treasurer for use of assignor. § 3. The attorney-general shall forthwith deliver to the treasurer of the state, for the use of such assignor, all moneys collected upon such claim, first deducting therefrom all expenses incurred by him in the collection thereof, and said assignor, or his legal representatives, shall be paid said money by said treasurer upon producing the check or draft therefor of the attorney-general to his or their order and proof of his or their identity.

L. 1881, Chap. 400—An act to prevent discriminations against any person on account of his race, creed, or color.

No discrimination allowed on account of race, creed, or color. SECTION 1. No person shall be denied the full and equal enjoyment of the accommodations, advantages, facilities and privileges of all hotels, inns, taverns, restaurants, public conveyances on land or water, theaters and other places of public resort or amusement, because of race, creed or color.

Penalty. § 2. Any person who shall violate the foregoing section by denying to any person, because of his race, creed or color, full enjoyment of any of the accommodations, advantages, facilities and privileges hereinbefore mentioned, or by aiding or inciting thereto, shall for every such offense be deemed guilty of a misdemeanor, and punished accordingly.

[Supplement to chapter 4.]

(Of Indians within the state.)

L. 1813, Chap. 29—An act relative to the different tribes and nations of Indians within this state.

Sales by, and contracts with Indians for lands; declared an offence; penalty. SECTION 1. *Be it enacted by the people of the state of New York, represented in senate and assembly,* That if any person, without the authority and consent of the legislature of this state, shall, in any manner or form, or upon any terms whatsoever, purchase any lands within this state, of any Indian residing therein, or make any contract with any Indian for or concerning the sale of any lands within this state, or shall in any manner give, sell, demise, convey, or otherwise dispose of any such lands, or any interest therein, or offer so to do, or shall enter on or take possession of, or settle on any such lands, by pretext or colour of any right or interest in the same, in consequence of any such purchase, or contract made or to be made, since the fourteenth day of October, one thousand seven hundred and seventy-five, and not with the authority and consent of the legislature of this state, every such person shall, in every such case, be deemed guilty of a public offence, and shall, on conviction thereof before any court having cognizance of the same, forfeit and pay to the people of this state, two hundred and fifty dollars, and be further punished by fine and imprisonment, at the discretion of the court.

7 N. Y., 401; 4 N. Y., 293; 15 Barb., 83; 3 Barb., 492; 2 Barb., 639; 11 Paige, 607; 5 Denio, 628; 6 Hill, 546; 8 Cow., 189; 20 Johns. R., 188, 693; 19 Johns. R., 127; 18 Johns. R., 506; 15 Johns. R., 264; 14 Johns. R., 181, 472; 7 Johns. R., 290; 2 Johns. Cas., 344; 5 T. & C., 6.

Suits not maintainable on bond, bill, note, etc., against certain tribes of Indians. § 2. *And be it further enacted,* That no person shall sue or maintain any action on any bond,

bill, note, promise or other contract hereafter to be made against any of the Indians, called the Stockbridge Indians, or of the Seneca tribe or nation, nor against any Indian residing in Brothertown, or on any lands reserved to the Oneida, Onondaga, or Cayuga Indians, and every person who shall sue or prosecute any such action against any of the said Indians, shall be liable to pay treble costs to the party grieved: *Provided*, That this section shall not extend to any action or suit on any contract made before the first day of July, in the year one thousand seven hundred and ninety.

4 N. Y., 293; 3 Barb., 492; 11 Paige, 607.

Spirituos Liguors not to be sold to Indians, in certain counties; proviso; no spirituos Liguors to be sold to the Brothertown Indians without license. § 3. *And be it further enacted*, That if any person shall sell to any Indian belonging to the Oneida or Stockbridge tribe, any rum, brandy, gin or other ardent spirits, within the counties of Oneida, Madison, or Chenango, he shall be deemed guilty of a public offence, and on conviction thereof, be fined at the discretion of the court, not exceeding twenty dollars for one offence, and shall also forfeit the sum of five dollars for every such offence, to be recovered in an action of debt with costs, in any court having cognizance thereof, by any one who will sue for the same, the one-half of which forfeiture to be paid to the prosecutor, and the residue to the overseers of the poor of the town in which such recovery shall be had for the use of the said poor: *Provided*, That on the recovery of such forfeiture, the offender shall not be liable to any other or further prosecution for the said offence: and no Indian or other person shall sell or dispose of any spirituos liguors or ardent spirits, in that part of the town of Paris called Brothertown, without first obtaining a license for the same, under the hands and seals of three of the superintendents of the Brothertown Indians, under the penalty of twenty dollars, to be recovered before any three of the keepers of the peace of Brothertown, the one-half of which shall be for the use of such Indian as shall sue for the same, and the other half for the use of the poor in Brothertown.

No spirituos Liguors to be sold to Indians within a certain tract. § 4. *And be it further enacted*, That if any person shall sell any rum, brandy, gin, or other ardent spirits, within the limits of the tract of land owned by the Muheconnuck or Stockbridge Indians, or within the reservation lands of the Oneida or Brothertown Indians, he shall forfeit twenty dollars for every such offence, to be recovered with costs in manner aforesaid, before any justice of the peace; one half thereof to be paid to the prosecutor, and the residue to the district attorney of the district within which the said tribes of Indians reside, to be by him paid into the treasury of this state, for the use of the tribes of Indians where such offence shall happen.

No pawn to be taken of Indians for Liguor. § 5. *And be it further enacted*, That no pawn taken of any Indian within this state, for any spirituos liquor, shall be retained by the person to whom such pawn shall be delivered; but the thing so pawned may be sued for and recovered, with costs of suit, by the Indian who may have deposited the same, before any court having cognizance thereof.

Incidental expenses of Indian affairs. § 6. *And be it further enacted*, That it shall be lawful for the comptroller on the order of the person administering the government of this state, to draw his warrant on the treasurer, for the payment of such sums of money as shall from time to time be necessary for incidental charges attending on Indian affairs, not exceeding five hundred dollars in any one year; and it shall also be lawful for the person administering the government of this state, to appoint such persons as he shall see fit, to provide for and entertain all Indians who may visit the seat of government on any business, and to order the comptroller to draw his warrant on the treasurer for such sum or sums of money, to defray the expense of entertaining such Indians, in favor of such persons as he shall direct, not exceeding in any one year the sum of one thousand dollars.

[Section 7 confirms treaties with and grants by Indians.]

Certain sums to be annually paid to certain Indians; Oneida tribe; Onondaga; Cayuga; posterity of the Fish Carrier; when to be paid; how to be paid; proviso; annuity to be paid the christian party of Oneida Indians; and to the Oneida nation; to the Cayuga nation; all other annuities. § 8. *And be it further enacted*, That the treasurer of this state shall annually, on the warrant of the comptroller, pay to the order of the person administering the government of this state, out of any moneys in the treasury, the following sums, to wit: the sum of four thousand eight hundred and sixty-nine dollars and twenty-eight cents, for the use of the Oneida tribe of Indians; the further sum of two thousand dollars, for the use of the Onondaga tribe of Indians; the further sum of two thousand three hundred dollars, for the use of the Cayuga tribe of Indians; and the further sum of fifty dollars, for the use of the posterity of the Cayuga chief, Fish Carrier, being the annuities to be paid to the said tribes and the posterity of the Fish Carrier respectively, and in lieu of all former annuities, in conformity to the said articles and the said treaty with the Oneida Indians, which said annuities shall be paid on the first day of June in every year, at the several places specified in the said articles and treaty for that purpose, at the expense of this state; and the person administering the government of this state, is hereby authorized to cause the said annuities to be paid in such manner, and by such persons as he shall think proper, and as may be most agreeable to the said Indians and the least expensive to this state, and for that purpose he may direct the surveyor-general to perform the service, or make such arrangements or contracts with any other persons relative thereto, as he may judge proper: *Provided however*, That such part of each of the said annuities as the person administering the government of this state shall in his discretion direct for that purpose, shall be first appropriated to the support of the public school, if any, instituted within the limits assigned to the said tribes respectively, in which Indian children shall be taught, and that the moneys so appropriated for the support of public schools within the said Oneida tribe, shall be distributed in such manner as that the several villages of the said Oneida tribe may, as near as may be, equally enjoy the benefit thereof: *And further*, The treasurer of this state shall, annually, on the warrant of the comptroller, pay to the order of the person administering the government of this state, such annuity as shall become due to the said christian party of Indians, by the stipulations contained in the treaty or purchases referred to in the preceding section; *and also*, the sum of three hundred dollars annually, for the Oneida nation of Indians, to be paid to the said Indians pursuant to the treaty referred to in the said preceding section; *and also*, such annuity as shall become due to the Cayuga nation by the stipulations contained in the treaty or contract with the Indians, also specified in the said preceding section; and all such other annuities as shall have arisen or become due by virtue of any contract, treaty, or purchase, with any of the tribes or nations of Indians in this state, made under the sanction of the legislature thereof, or subsequently ratified by law.

99 N. Y., 335; 34 Hun, 588.

[Section 9 confirms certain limits to the Stockbridge Indians.]

[Section 10 is omitted as temporary.]

[Section 11 was repealed by L. 1821, ch. 204.]

[Section 12 is omitted as temporary.]

St. Regis Indians may hold annual town meetings; and elect a clerk; his duties declared. § 13. *And be it further enacted*, That it shall and may be lawful for the said St. Regis Indians, on the first Tuesday of May next, and on the first Tuesday of May in every year thereafter, to hold a town meeting on their said reservation within this state, and by a majority of male Indians, above twenty-one years of age, to choose a clerk, who shall keep order in such meeting, and enter in a book to be provided by him for that purpose, the proceedings of the said meeting.

May make rules as to the improvement of their lands; and elect trustees to execute the same. § 14. *And be it further enacted*, That it shall and may be lawful for the said tribe, at any such meeting as aforesaid, to make such rules, orders and regulations, respecting the improvement of any other of their lands in the said reser-

vation, as they shall judge necessary, and to choose trustees for carrying the same into execution, if they shall judge such trustees to be necessary.

[Section 15 is omitted as temporary.]

Suits among the St. Regis Indians. § 16. *And be it further enacted,* That it shall be the duty of the district attorney residing in the district including the county of Washington, to advise and direct the St. Regis Indians residing at St. Regis, in the controversies among themselves, and with any other person, and defend all actions brought against any of them by any white person, and commence and prosecute all such actions for them, or any of them, as he may find proper and necessary; and in all prosecutions in their behalf, it shall not be necessary to name any individual of the said tribe, but it shall be sufficient to bring the same in the name of the St. Regis Indians, any law to the contrary notwithstanding.

[See L. 1818, chap. 283.]

Officers to be elected in New Stockbridge; powers and duties of peace makers. § 17. *And be it further enacted,* That it shall be lawful for the male Indians, above the age of twenty-one years, residing in New Stockbridge, to meet together on the first Tuesday of May annually, in said New Stockbridge, and there by a plurality of votes elect the following officers: One clerk, one marshal, and three peace makers; and the clerk shall preside at such meetings, who shall enter the proceedings thereat in a book to be kept by him for that purpose, and the proceedings of the peace makers shall be entered by him in the same book; and the marshal shall execute all orders of the peace makers, made in pursuance of this act: *And further,* It shall be lawful for the peace makers to call special meetings of the said Indians, at such times and places and on such occasions as they shall deem necessary; and the said Indians, at their said annual or special meetings, may, by a like plurality of votes, determine on the laying out of their lands for separate improvements, and to make such by-laws for the improvement of their common lands, for laying out and working on the highways, for regulating fences and the trespassing of cattle, and under such penalties, not exceeding three dollars for any one offence, to be sued for and recovered by any one of the said Indians in the manner hereinafter mentioned, as they shall deem necessary; to admit any Indian of any other tribe or nation to become an inhabitant of New Stockbridge, and to enjoy the same privileges with them; and the said peace makers shall lay out such parcel for the separate improvement of any person or family as shall have been directed at any such meeting, which parcel shall be marked out and described by them, and the description thereof in writing delivered to the said clerk, to be entered in the said book, and such parcel so allotted shall remain to such person and his legal representatives, but without the power of alienation, except that he or they may sell the improvements thereof to any other Indian residing in New Stockbridge, his or their assigns, but such sales shall be entered by the said clerk in the said book; and every person entitled to and possessed of such parcel, may sue any white person, Indian or other person, for any trespass committed thereon; and the said peace makers shall likewise bring actions in their own names for the trespasses committed on any of the said undivided lands, in any court having cognizance thereof; and if such trespass shall be committed by a white person or on lands allotted as aforesaid, by cutting down timber, or improving or occupying the said lands without the consent of such peace makers, such white person shall forfeit twenty-five dollars, recoverable with costs, by and in the names of the said peace makers, in any court having cognizance thereof, and to be paid by them as they shall deem most beneficial to the said Indians; and all contracts relative to any undivided land to be made by any one of the said Indians with another, are hereby declared void; and the said peace makers shall lay out such roads and highways, and from time to time order the inhabitants to work the same, and for so many days as shall have been directed at any annual or special meeting of the said Indians: *And also,* shall hear and determine all matters between any of the said Indians, relative to any trespass, debt, demand or penalty, under

any by-law made pursuant to this section, and to direct the said marshal to cause the parties and witnesses to be brought before them, and to hear their allegations and proofs; and in case the parties shall not comply with the determination of the said peace makers, then such peace makers shall commit their determination to writing, and the same being entered in the said book by the said clerk, shall entitle the party in whose favor such determination shall have been made, *provided*, the same do not exceed twelve dollars and fifty cents, to recover the sum awarded as upon a judgment of record in any court having cognizance thereof; and it shall be competent for any two peace makers to execute all the duties by this act delegated to all; and the missionary to the said Indians shall be entitled to the like remedy for any debt or demand against any of the said Indians, as the said Indians have against each other.

Appropriation for a minister of the gospel. § 18. *And be it further enacted*, That one hundred acres of the common land of the said Indians, at the northeast corner of the said town heretofore designated by the said peace makers, and entered in the said book, for the support of a minister of the gospel, shall be and remain for the use of the present minister and his successors, with power to use, improve or lease the said land; but whenever there shall be no missionary or settled minister, the said peace makers may improve or lease the said land, until such vacancy shall be filled, and the moneys arising therefrom shall be disposed of as shall be directed by an annual or special meeting of the said town.

Lands set apart for Brothertown Indians. § 19. *And be it further enacted*, That the tract of land heretofore set apart for the Indians called the New England Indians, consisting of the tribes called the Mohegan, Montock, Stonington and Narragansett Indians, and the Pequots of Groton, and Nehanticks of Farmington, shall be and remain to the said Indians and their posterity, but without any power of alienation by the said Indians, or of leasing or disposing of the same or any part thereof; and the said tract shall be called Brothertown, and shall be deemed part of the town of Paris, in the county of Oneida, for all purposes in the general execution of the laws and the administration of justice, in any of the courts of this state, and any proceeding incident thereto, except in cases provided for by this act.

20 Johns. R., 693; 2 Johns. Ca., 844; 2 Barb., 639.

Partition and devise of lands in Brothertown; appointment and duties of superintendents. § 20. *And be it further enacted*, That the lots or parcels of land heretofore set apart in Brothertown, in pursuance of any former law of this state, for the separate use of any of the said Indians residing therein, shall continue to be separately held and enjoyed by such Indians respectively; and it shall and may be lawful for any Indian residing in Brothertown to whom any lands have been assigned, to give and bequeath by will in writing, his personal estate, also to give and devise any right, title or interest which he may acquire to any lands, except the lands set apart for the Brothertown Indians; and every such will and devise shall be executed and proved as is directed by the act, entitled "An act concerning wills," passed the fifth day of March, 1813, and be of the same validity and effect as if made by any white person; and it shall be lawful for the person administering the government of this state, by and with the advice and consent of the council of appointment, as often as may be necessary, to appoint and commission five or more superintendents of the affairs of the Brothertown Indians, who shall hold their office for the term of three years, unless sooner removed by the said council: *Provided*, That the superintendents already appointed shall continue to hold their respective offices during the pleasure of the said council: and the said superintendents, or a major part of them, on application to them made by or on behalf of any particular Indian, shall have power to determine whether such Indian be entitled to settle on the said lands, and if so, to assign to such Indian, at their discretion, a particular lot or parcel of land for that purpose; and it shall not be lawful for any Indian or Indian family, or other person, to take possession of any part of the said lands, unless the same be assigned as aforesaid; and if

any Indian to whom any part of the said lands hath been or shall be assigned as aforesaid, hath neglected or shall neglect to take possession of the same within one year after becoming entitled thereto, or hath left or shall leave Brothertown for the space of one year, such Indian shall be deemed to have forfeited all right to the said land, and the said superintendents shall thereupon, at their discretion, assign the same to any other Indian then residing in and entitled to land in Brothertown; and that no accounts of any of the superintendents shall be allowed by the comptroller, unless the same shall be approved by a majority of the said superintendents, to be certified by them; and that the vouchers and receipts for such advances so made, shall accompany the same account, together with an oath or affirmation, that the articles furnished or services performed in such account, were furnished or performed by such superintendent or his order for the said Indians, and not for the benefit of any other person whomsoever.

Rule of descent among said Indians; proviso. § 21. *And be it further enacted,* That upon the death of any Indian residing in Brothertown, to whom any land hath been or shall be assigned as aforesaid, or who shall be entitled thereto, if such Indian shall die possessed thereof, leaving issue, the same shall go to and be equally divided among such issue, if they are all in equal degree of kindred to the deceased; but if such Indian shall leave a child or children, and the issue of a deceased child or children, then such issue shall stand in the place of the parent, and take only such share as the parent would have taken, if living, and the like division, *per stirpes*, shall be made among the descendants of such deceased Indian in the remotest degree; and if such Indian leave no issue, then the said land shall revert to the Brothertown Indians, and the said superintendents shall thereupon assign the same to some other Indian or Indians entitled thereto as aforesaid: *Provided however,* That the widow of the deceased shall in all cases have a right to continue in the house her husband died possessed of, during her widowhood; and the superintendents shall also assign to her so much of the said land of her husband as they may think necessary.

[Section 22 related to an annuity to the Brothertown Indians, as to which, see L. 1841, ch. 234.]

Provision for education in Brothertown. § 23. *And be it further enacted,* That it shall and may be lawful for any of the Indians entitled to and residing on lands in Brothertown, and to whom land adjoining the public school has been granted, to sell and convey to the peace makers of Brothertown, so much of the said land adjoining the said public school, as in the judgment of the said peace makers may be sufficient for the use and accommodation of the master of the said school for the time being, not exceeding twenty-five acres, for which such Indian or Indians shall be paid by the superintendents out of the annuity of the Brothertown Indians, such sum per acre as shall be agreed on by such Indian or Indians and the said peace makers, and approved of by the said superintendents; and the said land so to be purchased as aforesaid, shall be held by the said peace makers and their successors in trust, for the sole use and accommodation of such schoolmaster as shall from time to time be employed in keeping the said public school; and that it shall and may be lawful for the superintendents, or a majority of them, by and with the advice and consent of the person administering the government of this state, to appropriate, purchase or lease so much of the Indian land in Brothertown which has not been set apart to particular families or individuals, or to purchase or lease so much land already set apart, for the purpose of erecting for the use of the said Indians, a house for public worship in Brothertown, and other buildings necessary for the education and morals of their children, in such manner as to the superintendents, or a majority of them, shall appear most conducive to their future welfare; and by the advice and consent of the person administering the government of this state for the time being, out of the annuity to be paid annually to the said Indians, to defray the expenses of the education, and, if necessary, the support of the said Indian children; and in case the superintendents shall lease or purchase such lands as aforesaid, for the purpose above

mentioned, the rent or purchase money shall be paid out of the annuity as it shall become due to the said Indians, and also the expenses of building the houses for public worship, and the other buildings for the education of Indian children.

Superintendents of the Stockbridge Indians. § 24. *And be it further enacted,* That the superintendents of the Brothertown Indians for the time being, be, and they are hereby appointed superintendents of the Stockbridge Indians, for the purpose hereinafter mentioned; that is to say, it shall and may be lawful for the said superintendents, or a majority of them, by and with the advice and consent of the person administering the government of this state for the time being, and by and with the consent of the said Stockbridge Indians, to sell or to lease so much of their land in New Stockbridge, as may enable the said superintendents to repair their mills, to create such fund as they may judge necessary for the support of such old and decrepid persons as may be unable to procure a subsistence, and to make such further provision as they shall judge necessary for the better educating of the Indian children in New Stockbridge.

Relative to the disposal of lands. § 25. *And be it further enacted,* That on the sale of any land for the purposes above mentioned, the said superintendents shall make a conveyance of the same, take a mortgage from the purchaser or purchasers for the security of the payment of the purchase money at the time stipulated for the payment thereof, similar to those taken from the purchasers of lands in Brothertown, and shall cause the same to be lodged with the comptroller in his office; and the interest arising therefrom shall annually, and the principal when the same shall become due, to be paid to the said superintendents by the treasurer, on the warrant of the comptroller; and in case the superintendent shall judge it expedient to dispose of any part of the said lands on perpetual or other leases, such leases shall be taken in the name of the people of this state, and lodged with the comptroller in his office, and the rents arising therefrom shall, in like manner as aforesaid, be paid to the superintendents for the purposes aforesaid: *Provided always,* that no more than five hundred acres of land shall be sold or leased by the superintendents, until the further order of the legislature.

Accounts of superintendents of the Stockbridge Indians. § 26. *And be it further enacted,* That the accounts of the said superintendents in respect to the Stockbridge Indians, shall be audited by the comptroller, in like manner as their accounts are directed to be audited in this act in respect to the Brothertown Indians, and that they make annually a report to the person administering the government of this state for the time being, of their proceedings in pursuance of this act in respect to the said Stockbridge Indians.

Appointment and duties of attorney for Indians. § 27. *And be it further enacted,* That it shall be lawful for the person administering the government of this state as often as may be necessary, by and with the advice and consent of the council of appointment, to appoint and commission some proper person, learned in the law, to be the attorney of the Brothertown, Oneida and Stockbridge tribes of Indians, during the pleasure of the said council; but the person already appointed attorney to the Brothertown Indians, shall continue as the attorney of the said Indians during the pleasure of the said council; and that the said attorney shall from time to time, advise and direct the said Indians in the controversies among themselves, and with any other person, and defend all actions brought against any of them by any white person, and commence and prosecute all such actions for them, or any of them, as he may find necessary and proper; and in the prosecution and defence of any such actions, he shall observe and pursue such advice and directions as shall be given him, if any, by the said superintendents, or person administering the government of this state; and shall receive as a compensation for his services and expenses in the premises, the yearly salary of one hundred and fifty dollars, to be paid out of the said interest money.

[Office was abolished by L. 1841, ch. 234, and L. 1847, ch. 486.]
18 Johns. R., 506; 14 Johns. R., 335; 11 Paige, 607.

Relative to trespasses on Indian lands. § 28. *And be it further enacted,* That it shall be lawful for any Indian, whether male or female, to whom any of the said land in Brothertown has been, or shall be assigned as aforesaid, or who shall become entitled to the same, to sue and maintain actions of trespass, and to recover damages to his or her own use, for any trespass which shall be committed upon such land: *Provided,* That if any Indian, to whom any land hath been or may be assigned, shall neglect to improve the same by clearing and putting in good fence, four acres of the same, within four years after such assignment, and within two years thereafter build a good log or frame house thereon, such Indian shall be deemed to have forfeited all right to such land.

9 Johns. R., 362.

[Section 29 related to the attorney of the Brothertown Indians.]

Provision made for certain widows and children of Indians. § 30. *And be it further enacted,* That the superintendents of the affairs of the Brothertown Indians be, and they are hereby empowered to lease the lands assigned or belonging to any particular Indian in Brothertown aforesaid, who has died or may die, leaving a widow and infant children, or leaving a widow only, or infant children, to such person as they shall judge proper, who shall covenant to keep such land in good fence and repair, for such term of time as they shall deem necessary for the support of such widow and children, or for such widow only, or for such infant children, as the case may be, not exceeding the term of fourteen years, at such rent, to be paid in the produce of such land, as they shall judge reasonable; to be applied to the maintenance of such widow and children as aforesaid; and the said superintendents shall appoint proper persons to have the care and charge of such children.

Public houses for travelers; proviso. § 31. *And be it further enacted,* That it shall and may be lawful for the superintendents of the Brothertown Indians for the time being, or a majority of them, by and with the advice and consent of the person administering the government of this state for the time being, and by and with the consent of the Stockbridge Indians, to sell or lease so much of their lands on the turnpike road in one or more parcels, as they shall judge most convenient for keeping public houses for the accommodation of travelers, and shall take such securities for the same, and cause their accounts to be audited, and a report made of their proceedings, as is directed by the twentieth section of this act: *Provided always,* That no more land than three hundred acres be sold or leased by the said superintendents: *And further,* That the interest of the moneys arising from the sale of the said land, or from the rents thereof, shall be applied by the said superintendents for the purposes mentioned in the eighth section of this act.

[Section 32 is omitted as personal.]

Peace makers to be appointed in Brothertown; their general powers and duties; fees of marshal. § 33. *And be it further enacted,* That it shall and may be lawful for the person administering the government of this state, by and with the advice and consent of the council of appointment, to appoint not exceeding five, nor less than three of the said Indians to be keepers of the peace or peace makers, to hold their offices for three years, unless removed by the said council; and the said keepers of the peace shall severally have power to keep the peace in Brothertown, and a majority of them shall have power to hold a court at the school-house, or at such other place in Brothertown as they shall appoint, on the first Monday in every month, and in such court to hear and determine all disputes and controversies between any persons residing in Brothertown aforesaid, concerning any debt, demand or trespass, where the sum due or damages sustained shall not exceed twenty dollars, and all causes of assault and battery between the Brothertown Indians, to the amount of twelve dollars and fifty cents; and on complaint of the plaintiff, may issue their warrant to the marshal to bring the defendant forthwith before them, and try, give judgment, and issue execution thereupon as in other cases; and all actions for the recovery of any penalty of any by-law to be made at any town meeting in Brothertown, as hereinafter mentioned: and it

shall be lawful for either of the said keepers of the peace, upon complaint made to him, to cause the person complained of, to be summoned to appear at the next court to be held at the school-house or other place appointed as aforesaid in Brothertown, to answer the complaints; and the said keepers or the major part of them, shall, at such next court or other court to which the court may be adjourned, hear and examine the allegations and proofs of the parties, and make such order and decree between them as shall appear to them to be just, and if such order and decree be not performed in one month thereafter, shall then cause the sum adjudged or decreed to either party to be levied by distress and sale of the goods and chattels of the party who shall be adjudged or decreed to pay the same, together with such fees as are hereinafter allowed to the marshal for executing the process, but the said keepers shall not take any fees for their services; and it shall be lawful for the said keepers to adjourn any cause depending before them to the next court, whenever they shall find it necessary; and if the defendant shall not be personally summoned upon the process against him, and shall not appear at the return thereof, a new summons shall be issued; but if he shall have been personally summoned, then the court may at the return of the summons proceed to hear and determine the cause whether the defendant appears or not, unless a reasonable excuse shall be offered, in which case they shall adjourn the cause to the next court, and the judgment of the said keepers, or a majority of them, who shall attend upon the hearing of any cause, shall be conclusive between the parties; and whenever any order or decree is made by the said keepers, it shall and may be lawful for them to cause the amount of such order or decree to be immediately levied by distress and sale of the goods and chattels of the person against whom such order or decree shall be made: *Provided*, The person in whose favor such order or decree is made, shall make it appear to the satisfaction of the said keepers by his own oath or the oath of any other person, that he will be in danger of losing the sum so decreed if delay of execution be allowed: *And further*, That the marshals of Brothertown shall be allowed for serving a summons or execution, mileage for one mile, twelve and a half cents, and for every mile more, six cents; and that it shall be lawful for any one of the said keepers of the peace to issue a subpoena, the same being drawn in as brief a form as may be, and subscribed by such keeper, to summon any person, whose attendance may be required as a witness in any cause instituted before the said keepers; and if any person so summoned shall neglect to appear and give testimony in such cause, or render a sufficient excuse for his non-attendance to the satisfaction of such keepers, every such person shall forfeit to the party on whose behalf he shall be summoned, the sum of five dollars, to be recovered in an action of debt, in the name of such party, before the said keepers.

[Sections 34, 35 and 36 related to the attorney of the Brothertown Indians.]

Town meetings in Brothertown; officers to be elected thereat, etc. § 37. *And be it further enacted*, That it shall be lawful for the male inhabitants of Brothertown, of the age of twenty-one years and upwards, and they are hereby required to assemble together and hold town meetings at the said school-house, on the first Tuesday of April in every year, at which meeting the senior keeper of the peace then present shall preside, and then and there to elect one town clerk, two overseers of the poor, two marshals, and so many overseers of the highways as the majority of the inhabitants so met shall think necessary, who shall hold their respective offices for one year, and until others shall be chosen in their places: *Provided*, That no Indian shall be eligible to perform any office in Brothertown, unless two of the superintendents shall grant a certificate under their hands, to be entered in the clerk's book, that he has not been in the practice of making an improper use of spirituous liquors for the space of one year previous to the giving of such certificate; and if any of the officers so chosen shall refuse to serve, or shall die, or remove out of town, or become incapable of serving, before the next annual town meeting, then and in every such case, another or others shall be elected in his or their places in the manner aforesaid, at a town meeting to be

held for that purpose; and the said inhabitants of Brothertown are hereby authorized, at their annual town meeting, or at any other town meeting to be held for that purpose from time to time, to make and establish such regulations and by-laws as a majority of them so met may think necessary and convenient, for the better relief of the poor, and for binding out children whose parents are dead or absent; and for ascertaining what bridges, and what part of any highway each of the overseers of the highways shall have the care of, and which of the inhabitants shall be obliged to work on the highways, and how many days each of them shall work thereon; and for ascertaining the sufficiency of fences, and the times, places and manner of preventing or permitting cattle, horses, sheep and swine, or any of them, to go at large; and for ascertaining damages done by trespasses, and for maintaining good order among themselves, and concerning any other matters relative to their own affairs; to impose such penalties on the offenders against such regulations and by-laws, or any of them, as the majority of the inhabitants so met shall deem proper, not exceeding five dollars for any offence, to be recovered with costs, by any inhabitant of Brothertown who shall sue for the same, by action of debt, before the said keepers of the peace, or any three of them, the one half of which penalty, when recovered, shall be for the use of the person who shall sue for the same, and he shall pay the other half to the overseers of the poor of Brothertown, to be by them applied for the relief of the poor; and that all such regulations and by-laws shall be entered by the town clerk in a book to be provided for the purpose, and shall continue in force until revoked or altered by some subsequent town meeting; but no special town meeting shall be held for any purpose, unless notice thereof, signed by two or more of the said keepers of the peace, be fixed upon the door of the school-house in Brothertown, at least six days before the day of holding such town meeting.

Commissioners of highways. § 38. *And be it further enacted,* That the said keepers of the peace shall be commissioners of the highways in Brothertown; and they, or the majority of them, shall have power, from time to time, to alter any highway in Brothertown, and to lay out others as there may be occasion, and to direct how and when the same or any of them, or any part thereof, shall be made, mended or repaired: *Provided always,* That all highways by them laid out, shall be at least four rods wide, and they shall cause a record thereof to be entered by the town clerk of Brothertown; and the said overseers of the highways shall cause the highways and bridges of which they shall be respectively chosen overseers, to be repaired and made according to the directions of the said commissioners, and shall warn the inhabitants to work thereon whenever it shall be necessary, and shall superintend and direct the same: *And further,* It shall be the duty of the keepers of the peace, or the majority of them, laying out such road, to appraise the damages sustained by the proprietor of any such land thereby, which shall be paid to such proprietor out of the annuity of the said Indians; and any person conceiving himself aggrieved by any such appraisalment, may appeal therefrom to one of the superintendents and the attorney of the said Indians, whose determination shall be final in the premises.

Marshals. § 39. *And be it further enacted,* That the marshals to be chosen in Brothertown as aforesaid, shall have the like powers and authority there as constables of other towns in this state have by law in their towns, and shall be entitled to twelve and an half cents for serving every summons, and twenty-five cents for serving every execution for any sum not exceeding two dollars and fifty cents, and at the rate of ten cents in the dollar, for serving every execution for any such sum above two dollars and fifty cents.

[Section 40 is omitted as personal and local.]

Accounts to be furnished to peace makers. § 41. *And be it further enacted,* That it shall be the duty of the superintendents to be appointed in pursuance of this act, annually to furnish the said peace makers with the account of their expenditures, audited by the comptroller, and the state of the funds belonging to the Brothertown Indians; and the said superintendents shall, from time to time,

render an account to the person administering the government of this state, of the moneys remaining in their hands of the annuity of the Brothertown Indians, over and above their expenditures authorized by law to the use of the said Indians.

Orphans, etc.; books and salary of town clerk. § 42. *And be it further enacted,* That, the said keepers of the peace shall be guardians of the persons and property of all infants in the said town, who shall not have any parents there to take care of them; and the said keepers shall distribute the personal property of such Indian as shall die intestate, according to the laws of this state, relative to the distribution of the personal estate of any citizen, subject to an appeal to such superintendents and attorney, in case any person shall conceive himself aggrieved by such distribution; and such keepers shall be entitled to such compensation for their services under this section, as the said superintendents and attorneys shall deem reasonable, payable annually out of the annuity allowed to the said Indians: *And further,* The said superintendents shall supply the said town clerk with such books and papers as may be necessary for the execution of the duties enjoined on him by this act; and such clerk shall receive annually for his services, such sum as the said superintendent shall deem adequate.

Buildings for public worship; Indians to travel free of toll and ferriage. § 43. *And be it further enacted,* That the buildings erected in the villages of the Tuscarora and Seneca tribes of Indians, for public and religious worship, and for education, shall continue as such for the said purposes: *And further,* The said Senecas and the other Indians of the Six Nations, may pass and repass free of toll and ferriage, at all reasonable times of the day, on any turnpike road, which shall have been established since the sixth day of April, one thousand eight hundred and three, or which may hereafter be established, leading from or through the town of Canandaigua to Buffaloe creek or its vicinity, and over any toll bridge between those places, and also at the ferry across the Niagara river at or near Black Rock, or at such other place or places in its vicinity where any ferry shall have been established since the time aforesaid, or hereafter to be established.

[Section 44 was repealed by L. 1841, ch. 234.]

[Section 45 is omitted as temporary.]

Conveyances by Indian patentees. § 46. *And be it further enacted,* That whenever any legal conveyance shall be submitted to the surveyor-general for his approbation, executed by any Indian patentee of lands granted for military services in the revolutionary war, or by the heirs of such patentee, it shall be his duty to ascertain that such conveyance has been obtained fairly and for a competent consideration, and that such consideration has been paid or secured to be paid to such grantors, their heirs, executors, administrators or assigns, before he shall endorse his approbation thereon in the manner required by law; but nothing contained in this section shall affect or prejudice conveyances made before the seventh day of March, one thousand eight hundred and nine.

1 Hill, 121; 17 Wend., 531; 5 Wend., 532; 15 Johns. R., 264.

[Section 47 was extinguished by L. 1839, ch. 40.]

[Section 48 is omitted as temporary.]

[Section 49 confirms personal grants.]

[Sections 50 and 51 are omitted as temporary.]

Governor may purchase lands of Indians. § 52. *And be it further enacted,* That it shall and may be lawful for the governor for the time being, to make any contract and contracts with any nation or tribe of Indians within this state, for the purchase of all or any of their lands therein; and that the treasurer, on the warrant of the comptroller, shall pay such sums as may be necessary in the first instance to defray the expense of, and to carry into effect all and every treaty for the purchase of such lands or any part thereof.

Relative to Shinecock Indians. § 53. *And be it further enacted,* That it shall be lawful for the male Indians above the age of twenty-one years, belonging to the Shinecock tribe in Suffolk county, to meet together on the first Tuesday of April

in every year, at the place for holding town meetings in the town of Southampton, and by plurality of voices annually to elect three persons belonging to the said tribe as trustees, who, by and with the consent of three justices of the peace residing next to the lands of the said tribe, are hereby authorised and empowered from time to time to lease out so much of the said lands as they shall judge proper for the benefit of the said tribe, and for any term not exceeding three years, and to lay out and appropriate such quantity of the said lands to each individual or family of the said tribe as they shall judge proper and necessary for his or their improvement, and also to order and direct on what part of the said lands firewood and timber may be cut by the said tribe for their use; and it shall be the duty of the clerk of the said town annually to attend and preside at such meeting of the said Indians, and to enter in a book by him to be kept for that purpose, the names of the trustees to be chosen as aforesaid, and the proceedings of such trustees and justices; and if any person shall occupy or use any of the said lands without the consent of a majority of the said trustees, and of a majority of such justices first obtained and entered in the said book, such person shall forfeit the sum of five dollars for every acre so used or occupied; and if any person belonging to the said tribe shall cut any wood or timber on the said lands without such order and consent of the said trustees and justices first entered in the said book, such person shall forfeit the sum of ten dollars for each offence, which penalties shall be sued for and recovered by such justices in their own names, in any court having cognizance thereof, with costs of suit, for the use of, the said tribe.

[See L. 1859, ch. 46; L. 1816, ch. 133.]

[Section 54, providing for Peter Otsequette and his posterity, was extinguished by L. 1835, ch. 294.]

Indian patentees for military services. § 55. *And be it further enacted*, That the heirs of each of the Indians to whom land has been granted by this state for military services, in the late war between the United States and Great Britain, shall be, and hereby are made capable of taking and holding any such lands by descent, in the same manner as if such heirs were citizens of this state at the death of his, her or their ancestors; and that every conveyance hereafter to be executed by such patentee, or his heirs, to any citizen of this state, for any such land, shall be valid, if executed with the approbation of the surveyor-general of this state, to be expressed by an endorsement on such conveyance, and signed by the said surveyor-general: *Provided*, That nothing in this act shall in any manner confirm any deed or conveyance heretofore executed by the patentee or his heirs: *Provided further*, That if any such land be now occupied or improved, the occupant, his or her heirs or assigns, shall be entitled to be paid for his, her or their improvements, in the manner mentioned in the second section of an act, entitled "An act concerning lands in the military tract," passed the eighth day of April, one thousand eight hundred and thirteen.

17 Wend., 531.

L. 1816, Chap. 114—An act regulating the payment of the compensation of the attorney of the Brothertown, Oneida and Stockbridge tribes of Indians.

[Section 1 is omitted as temporary.]

§ 2. *And be it further enacted*, That the treasurer, on the warrant of the comptroller, shall hereafter, annually, pay to the attorney of the said Indians, the sum of seventy-five dollars, in part of the salary allowed him by the act above mentioned; and that the remainder of his salary shall be paid in the manner in said act mentioned.

L. 1816, Chap. 133 — An act relating to the Shinecock tribe of Indians.

Trustees to be elected. SECTION 1. *Be it enacted by the people of the state of New York, represented in senate and assembly,* That it shall be lawful for the male Indians, above the age of twenty-one years, belonging to the Shinecock tribe, in Suffolk county, to meet together on the first Tuesday in April, in every year, at the place for holding town meetings, in the town of Southampton, and by plurality of voices, annually to elect three persons, belonging to the said tribe, as trustees; and it shall be the duty of the clerk of the said town, to attend and preside at such meetings of the said Indians, and to enter in a book to be kept by him for that purpose, the names of the trustees to be chosen as aforesaid, and the proceedings of such trustees, and of the said trustees and the justices hereafter mentioned.

Lands to be divided. § 2. *And be it further enacted,* That the said trustees are hereby authorized and empowered, from time to time, to lay out and appropriate such quantity of the lands of the said tribe, to each individual or family of the said tribe, as they shall judge proper and necessary for his or their improvement: *Provided,* That the whole quantity so laid out and appropriated, in any one year, shall not exceed one hundred and twenty-five acres: And the said trustees, by and with the consent of three justices of the peace, residing in or near the town of Southampton, are hereby authorized and empowered, from time to time, to lease out so much of the said lands, as they shall think proper, for the benefit of the said tribe, and for any term not exceeding three years. And also to order and direct on what part of the said lands, fire-wood and timber may be cut by the said tribe for their use.

[See L. 1859, ch. 46.]

Penalty for persons not of the tribe to hire lands. § 3. *And be it further enacted,* That if any person not of the said tribe shall in any manner hire, use or occupy any of the said lands, which shall be so laid out and appropriated as aforesaid, such person shall forfeit the sum of twenty-five dollars for every acre so hired, used or occupied; and if any person shall occupy or use any of the said lands, without the consent of a majority of the said trustees, and of at least two of the said justices first obtained and entered in the said book, such person shall forfeit the sum of twenty-five dollars for every acre so used or occupied: And if any person belonging to the said tribe, shall cut any wood or timber on the said lands, without such order and consent of the said trustees and justices first entered in the said book, such person shall forfeit the sum of ten dollars for each offence; the one half of which penalties shall be to the use of the overseers of the poor of the town of Southampton, and the other half to the use of the party who will sue for the same, by action of debt, in any court having cognizance thereof.

L. 1817, Chap. 143 — An act concerning certain Indians residing within this state.

No pawn or pledge lawful. SECTION 1. *Be it enacted by the people of the state of New York, represented in senate and assembly,* That it shall not be lawful for any white person, under any pretence, or on any account whatever, to receive from any Indian, residing on a tract of land belonging to or occupied by the Mohekkonic or Stockbridge Indians, or on the reservation lands of the Oneida or Brothertown Indians, any article or articles whatsoever, by way of pawn or pledge; and that every person who shall receive such pawn or pledge, shall forfeit the sum of twenty dollars, to be recovered in an action of debt, in the name of the Indian from whom he shall have received such pawn or pledge, in any court having cognizance thereof, with costs: And that every such pledge or pawn, or the value thereof, shall also be recoverable, with costs, by the Indian from whom the same shall have been received, in an action of replevin or trover, at his election.

L. 1817, Chap. 152—An act to amend the act, entitled “An act for the relief of the settlers on lands belonging to the Stockbridge Indians.”*

Attorney may remove settlers; superintendents may issue warrants; persons complained of may be removed; goods may be sold. SECTION 1. *Be it enacted by the people of the state of New York, represented in senate and assembly,* That it shall be the duty of the attorney of the Stockbridge Indians, if he considers any person who now resides or shall hereafter come to reside on the lands of the said Indians, who is not entitled by law to settle on said lands, is likely to be injurious to the said Indians by corrupting their morals, or by injuring their lands or property, to notify such person in writing to remove from said lands; and in case such person shall neglect to remove for the space of ten days after receiving such notice, it shall and may be lawful for any one of the superintendents of the said Indians, on complaint of their attorney, to issue a summons commanding such person to appear before the superintendents of the said Stockbridge Indians, at such time and place as the superintendent who shall issue such summons, shall appoint to show cause why he or she should not be removed from the lands of said Indians, which summons may be served by the sheriff or any constable of either of the counties of Oneida or Madison, by reading the same to the person to be summoned, and leaving a copy of said summons, if required, at least ten days before the time appointed in such summons, for his or her appearance before said superintendents, and said summons being returned duly served as aforesaid, it shall be the duty of the said superintendents, or a majority of them, to assemble for that purpose at the time and place mentioned in said summons, or at such other time and place to which said superintendents may adjourn the hearing of such complaint, not exceeding ten days thereafter, to examine into said complaint; and if the said superintendents, so assembled, shall find and adjudge such person so complained of, is at the time of such adjudication, resident on the lands of said Stockbridge Indians, and is likely to prove injurious to their morals or their property, and that he or she has no legal right to reside on said lands, it shall be the duty of the superintendents, so assembled, to order such person with his or her family to be removed from said lands; and they shall further order and adjudge that such person shall pay such sum as the said superintendents shall adjudge necessary to defray the expense of such proceedings; and said superintendents shall issue their warrant, under their hands and seals, directed to the sheriff or any constable of the counties of Oneida or Madison, commanding the officer to whom such warrant is directed, to remove the person so complained of, and his or her family, if any he or she hath, from the lands of said Indians, and to distrain and sell the goods and chattels of such person sufficient to raise the sum adjudged for the costs of such proceedings; and it shall be the duty of the said officers, to whom such warrant shall be directed and delivered, to execute the same without delay, and to make return thereof, with the costs, to said superintendents.

Witnesses summoned. § 2. *And be it further enacted,* That the said superintendents, or any one of them, may issue a subpoena for witnesses to appear before them, on the trial of any complaint, triable by virtue of this act; and it shall be the duty of each and every person subpoenaed as a witness, to attend before said superintendents, and be sworn, and give evidence as to what he or they may know, respecting the complaint then on trial, before the said superintendents, which oath each and every of the superintendents are hereby authorized to administer; and it shall be the duty of each of the said superintendents to issue the like subpoena in favor of the person complained of if required so to do.

Costs. § 3. *And be it further enacted,* That the following costs, and no other, shall be allowed for executing the duties required by this act; for a summons, twelve and an half cents; for every order, one dollar; for a warrant, twenty-five cents; for a subpoena, for each witness, six cents; serving subpoena, on each witness, twelve and an half cents; each witness attending, twelve and an half cents;

* The provisions of the act thus amended were temporary.

swearing each witness, six cents; for serving a summons, the same fees as are allowed to constables for serving a summons, by the act for the recovery of debts to the value of twenty-five dollars; and for serving a warrant, such sum as said superintendents shall adjudge to be reasonable.

Superintendents of Stockbridge and Brothertown Indians. § 4. *And be it further enacted,* That the superintendents of the Brothertown Indians, who now are and may hereafter be appointed, shall, during their continuance in office, be the superintendents of the Stockbridge Indians, for all the purposes mentioned in this act.

[Section 5 repeals a prior provision.]

L. 1818, Chap. 283 — An act to amend an act, entitled “An act relative to district-attornies.”

[Section 1 is omitted as obsolete.]

Duty of district-attorney of Franklin. § 2. *And be it further enacted,* That it shall be the duty of the district-attorney for the county of Franklin to perform all the duties now required by law of the district attorney of the fifth district, relative to the St. Regis Indians.

[Sections 3-9 relate to matters other than Indians.]

L. 1821, Chap. 204 — An act respecting intrusions on Indian lands.

Persons prohibited from settling on Indian lands; duty of sheriff. SECTION 1. *Be it enacted by the people of the state of New York, represented in senate and assembly,* That it shall be unlawful for any person or persons, other than Indians, to settle or reside upon any lands belonging to or occupied by any nation or tribe of Indians within this state, and that all leases, contracts and agreements, made by any Indians, whereby any person or persons, other than Indians, shall be permitted to reside upon such lands, shall be absolutely void; and if any person or persons shall settle or reside on any such lands, contrary to this act, it shall be the duty of any judge of any court of common pleas of the county within which such land shall be situated, on complaint made to him, and on due proof of the fact of such settlement or residence, to issue his warrant under his hand and seal, directed to the sheriff of such county, commanding him within ten days after the receipt thereof, to remove such person or persons, so settling or residing with his, her or their families, from such lands; and it shall be the duty of such sheriff, accordingly, within the time aforesaid, to remove such person or persons, and for that purpose he shall have and possess the same powers as in the execution of criminal process; and such judge, for issuing such warrant and taking the preliminary proof, shall be entitled to receive a fee of one dollar in each case; and such sheriff, for executing the said warrant, shall be allowed such compensation as the comptroller shall certify to be reasonable; which fees shall be paid by the treasurer, on the warrant of the comptroller, out of any moneys in the treasury not otherwise appropriated.

16 N. Y., 203; 7 N. Y., 428; 1 Denio, 617; 19 Johns. R., 127; 1 How. P. R., 186.

Penalty on certain offenders returning, etc.; duty of sheriff. § 2. *And be it further enacted,* That if any person or persons, after being so removed as aforesaid, shall return to settle or reside upon any lands occupied by or belonging to any nation or tribe of Indians within this state, such person or persons so offending and being thereof convicted before any judge of the court of common pleas of the county where such lands are situated, upon the confession of the party offending, or proof of any witness or witnesses on oath, then the said judge, before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal, to the sheriff of the said county, commanding him to arrest such person or

persons forthwith, and to commit him or them to the common gaol of the said county, there to remain for the space of thirty days; and such sheriff shall accordingly arrest and commit such person or persons to the said common gaol for the term of time aforesaid, there to remain, without bail and without being entitled to the liberties of the limits of the said gaol; and such judge shall cause such conviction to be drawn up and filed in the office of the clerk of the county; and no such conviction or adjudication shall be liable to be removed by certiorari or otherwise, but shall be deemed and taken to be final.

[Section 3 repeals L. 1813, ch. 29.]

[Section 4 is omitted as temporary.]

Duty of district-attornies. § 5. *And be it further enacted*, That it shall be the duty of the respective district-attornies of the several counties of this state, in which any lands belonging to any Indian tribe shall be situated, to prosecute in the name of the people of this state, for any penalties that may be incurred under and by virtue of the act, entitled "An act to prevent trespasses on Indian lands within this state," passed April 2d, 1813; and one half of all moneys collected for violations of the said act, shall be paid to the treasurer of such county, and the other half thereof shall be paid to the Indian tribe on whose lands the said trespasses shall be committed; and that so much of the second section of the said recited act as is contrary to the provisions of this section, be and the same is hereby repealed.

Further duties of district-attornies. § 6. *And be it further enacted*, That it shall be the duty of the said district-attornies respectively, to make complaint of all intrusions upon Indian lands, forbidden by this act, and from time to time to make inquiries whether any persons other than Indians are settled upon such lands, and to cause them to be removed in the manner herein prescribed, and in case of their return, to complain to some judge of the county, that the provisions of this act may be carried into effect; and for their attendance before any such judge, on making such complaint, they shall respectively be allowed the same fees as for the trial of an indictment in the court of general sessions of the peace, to be paid in like manner as those fees are now paid by law.

L. 1822, Chap. 205—An act to amend the act entitled "An act relative to the different tribes and nations of Indians in this state."

Selling ardent spirits to any Onondaga Indian prohibited, etc. SECTION 1. *Be it enacted by the people of the state of New York, represented in senate and assembly*, That the provisions of the third section of the act entitled "An act relative to the different tribes and nations of Indians in this state," passed April 10, 1813, be and they are hereby extended to the Onondaga tribe of Indians, and that any person or persons who shall sell to any Indian of said tribe, or to any Indian residing with or visiting said tribe, any rum, brandy, gin or other ardent spirits, within the county of Onondaga, shall be deemed guilty of a public offence, and be subject to the penalties provided in and by the said section, to be recovered and paid, in the manner therein prescribed.

L. 1823, Chap. 40—An act for the relief of the Stockbridge Indians.

Preamble. WHEREAS, the Stockbridge Indians have represented by their petition, that moneys paid by the people of this state on their behalf, have not been properly applied, when placed in the hands of their peace makers for distribution, and that they are on that account liable to imposition: Therefore,

Duty of comptroller. SECTION 1. *Be it enacted by the people of the state of New York, represented in senate and assembly*, That the amount directed to be paid by the treasurer, on the warrant of the comptroller, by the forty-ninth section of the

act, entitled "An act relative to the different tribes and nations of Indians within this state," passed 10th April, 1813, shall be paid to the superintendents of the said Stockbridge Indians, to be by them applied to the purposes mentioned in the said forty-ninth section, instead of paying the same to their schoolmaster, in the manner therein provided.

Moneys payable to the Stockbridge Indians. § 2. *And be it further enacted,* That all moneys due to the Stockbridge Indians by treaty or otherwise, shall be paid to the superintendents of the said Stockbridge Indians, to be by them applied on the order of the peace makers, chiefs and warriors of the said tribe, for their benefit and to enable them to remove to Green Bay; and that the superintendents shall account with the comptroller annually, on or before the first of January in each year, for all moneys which shall come to their hands.

Persons required to be present at treaties, etc.; proviso. § 3. *And be it further enacted,* That in case any treaty shall hereafter be held and made with the said Indians by the people of this state, it shall be the duty of the said superintendents, some or one of them, to be present and attend at the making thereof, and to receive such sum or sums of money as shall be stipulated to be paid to them by such treaty; and in case of the non-attendance of such superintendent or superintendents, at the time of making any such treaty, it shall be lawful for the executive or other agent or agents on the part of the people of this state, to pay any such moneys to the peace makers and such other of the said Indians as may be present at the making of such treaty, and as shall be properly authorized by the said Indians to consent and enter into the same: *Provided however,* that no money shall be paid to any superintendent or agents, unless good and ample security, if required, is given to the comptroller, for the faithful application of said moneys to the purposes mentioned in this act.

Agent to be appointed. § 4. *And be it further enacted,* That the said superintendents shall appoint an agent to reside among the said Indians, whose duty it shall be to give to the said superintendents information of all trespasses done on the lands of said Indians, and generally to perform such services for the benefit of the said Indians, or as the said superintendents shall from time to time direct, which shall receive from them such compensation as they shall deem reasonable, not exceeding thirty dollars per annum, out of the funds in their hands belonging to the said Indians.

L. 1824, Chap. 177 — An act to provide for the appointment of peace makers and town clerk for the Stockbridge Indians, and for other purposes.

Preamble. WHEREAS it appears by a petition from the Stockbridge Indians that there has difficulty arisen in their nation, respecting their mode of appointing peace makers, on account of the mulattoes and negroes that have been adopted into their nation, and the Stockbridge Indians pray that a law may be passed, so as to prevent any further difficulty as to the mode of appointing peace makers and town clerk in their nation: Therefore,

Peace makers and town clerk. SECTION 1. *Be it enacted by the people of the state of New York, represented in senate and assembly,* That it shall be lawful for the Stockbridge and Delaware Indians that have been adopted into the Stockbridge tribe, to meet in general council, and by a majority of votes given in such council, to appoint peace makers and town clerk; and such peace makers and town clerk shall hold their office for the term of one year.

Negroes, etc., not to vote. § 2. *And be it further enacted,* That it shall not be lawful for any negro or mulatto to meet or vote in any such council, after the passing of this law; and it shall be the duty of the town clerk of the Stockbridge Indians to transmit the names of the peace makers and town clerk to the superintendent of Indian affairs, and it shall be the duty of the said superintendents to keep record of the same.

[Sections 3-5 are omitted as temporary.]

1825, Chap. 257 — An act to amend the act entitled "An act respecting intrusions on Indian lands," passed March 31, 1821.

Power of judges of county courts; proviso. SECTION 1. *Be it enacted by the people of the state of New York, represented in senate and assembly,* That whenever the judges of the county courts of any county in this state, within which any reservation tract of land occupied by any tribe or nation of Indians may be situate, or a majority of them, shall on the request of any such tribe or nation of Indians, or a major part of them, grant a license in writing to any schoolmaster, teacher or family of teachers, to enter and to reside upon any such lands or reservation, and for that purpose to occupy so much land as the said judges shall in such license specify, not exceeding fifty acres; and whenever the said judges, or a majority of them, shall as aforesaid grant a license to any person to reside on any such reservation, for the purpose of instructing the said Indians in agriculture, the mechanic arts, or to erect for them any mill or other machinery, to attend and keep in repair any mill or other machinery, or to assist such Indians in the manufacture of salt, the person or persons to whom such license shall be granted, shall not be subject to the provisions contained in the act entitled "An act respecting intrusions on Indian lands," passed March 31, 1821: *Provided,* That the said judges, or a majority of them, may at any time in their discretion revoke any such license so granted by them as aforesaid; and it shall be their duty to revoke the same whenever it shall appear that any person to whom the same was granted has sold, given away, or in any way distributed any ardent spirits among the said Indians; and whenever such license shall be revoked, the same shall cease to have any force or effect whatever; and it shall be the duty of the district attorney of the county wherein such reservation tract of land is situate, to proceed and cause the removal of such person or persons from such reservation, according to the provisions of the act aforesaid.

16 N. Y., 203; 1 Denio, 617; 1 How. Pr. R., 186.

1826, Chap. 150 — An act to amend the act entitled "An act relative to the different tribes and nations of Indians in this state," passed April 10, 1813.

Third section of former act extended to the Seneca and St. Regis Indians; selling ardent spirits to them declared a public offence. SECTION 1. *Be it enacted by the people of the state of New York, represented in senate and assembly,* That the provisions of the third section of the act entitled "An act relative to the different tribes and nations of Indians in this state," passed April tenth, eighteen hundred and thirteen, so far as they may be applicable, be, and they are hereby extended to the Seneca and St. Regis tribes of Indians, and that any person or persons who shall sell to any Indian of said tribes, or to any Indian residing with or visiting said tribes, any rum, brandy, gin, or other ardent spirits, within the county of Cattaraugus or Franklin, shall be deemed guilty of a public offence, and be subject to the penalties provided in and by the said section, to be recovered and paid in the manner therein prescribed.

1830, Chap. 70 — An act to amend an act, entitled "An act for the relief of the Stockbridge Indians," passed February eighteenth, eighteen hundred and twenty-three.

Superintendent to account annually. SECTION 1. The superintendents of the Stockbridge Indians shall hereafter account with the comptroller for all moneys which shall come into their hands under the provisions of the act hereby amended, on or before the first day of December in each year; and so much of the act hereby amended as is inconsistent with this act, is hereby repealed.

L. 1834, Chap. 289—An act concerning the first Christian Party of Oneida Indians.

Annual payments. SECTION 1. It shall be the duty of the treasurer to pay annually, upon the warrant of the comptroller, to be drawn for that purpose, to the part of the First Christian Party of Oneida Indians residing in this state, in addition to the annuity now payable to them, the annual interest of the sum which at the time such annuity becomes payable, may remain owing to said party, out of the fund retained and set apart by law to defray the expenses of the migration of said party to Green Bay. In making the payment under this act, interest shall be computed equitably, and allowed from the time of the release of the land of the Indians to the state.

L. 1835, Chap. 110—An act to prohibit the sale of ardent spirits to the St. Regis Indians.

Penalty. SECTION 1. If any person shall knowingly sell or furnish to any Indian belonging to or residing with the St. Regis tribe, any rum, brandy, gin, whiskey or other spirituous liquor, within the counties of Franklin or St. Lawrence, such person shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined, at the discretion of the court, not exceeding twenty-five dollars for one offence, or may be imprisoned not exceeding thirty days, and shall also forfeit for every such offence the sum of five dollars, to be recovered with costs in an action of debt by any person who will sue for the same, one-half of which forfeiture to be paid to the prosecutor, and the residue to the commissioners of common schools of the town in which such money shall be had, for the use of the common schools in such town: and that on the recovery of such forfeiture, the offender shall not be liable to any other or further prosecution for the same offence.

[Section 2 repeals a prior provision.]

L. 1836, Chap. 316—An act authorizing the construction of railroad upon Indian lands.

Contracts how to be made. SECTION 1. It shall be lawful for any railroad company that has been, or may hereafter be chartered by the legislature of this state, to contract with the chiefs of any nation of Indians, over whose lands it may be necessary to construct such railroad, for the right to make such road upon such lands; but no such contract shall vest in such railroad company the fee to such lands, nor the right to occupy the same for any purposes other than what may be necessary for the construction, occupancy and maintenance of such railroad.

And ratified. § 2. No contract made with the chiefs of any nation of Indians, for the purposes mentioned in the first section of this act, shall be valid or effectual until the same shall be ratified by the court of common pleas of the county where such lands may be situated.

L. 1839, Chap. 58—An act relating to the Oneida tribe of Indians.

Commissioners of the land office. SECTION 1. The commissioners of the land office or a majority of them, are hereby clothed with the following powers and duties:

May direct land purchased since 1829 to be paid for. 1. To direct the payment in their discretion to the Oneida tribe of Indians, or any party of them recognized as such party by the laws of this state, of the amount for which all lands purchased by this state, since the eleventh day of February, one thousand eight hundred

and twenty-nine, of said Indians, or any part of them, were sold by this state, deducting therefor all expenses of survey and sale of said lands, and all moneys heretofore paid said Indians, or any party of them, in consideration of such purchase, or in any manner invested for the benefit of said Indians, or any part of them :

To direct principal of annuities to be paid. 2. To direct the payment to said Indians, or any party or portion of them, of the principal of the annuities or such portion thereof as the said commissioners of the land office, or a majority of them may from time to time deem proper, remaining under the control of this state, for the benefit of said Indians, or any party or portion of them :

To purchase lands of Indians. 3. To purchase of said Indians, or any party or portion thereof, their lands, or any part thereof, situate in the counties of Oneida and Madison, from time to time as the commissioners, or a majority of them, may deem proper, and on such purchase to pay such Indians the full value of such lands to be purchased, or what such lands shall sell for by the state, deducting all expenses of survey and sale thereof :

To make treaties, etc. 4. To make such treaties, contracts, and arrangements with the said Indians, or any party or portion of them, in relation to the lands of the said Indians in this state, or any moneys belonging to them under the control of this state, as the said commissioners of the land office, or a majority of them may deem just and proper.

To hear and determine questions. 5. To hear and determine all questions which may arise in relation to any moneys under the control of this state, belonging to said Indians, or any party or portion of them, and all questions which may arise between the various parties of the said Indians, in relation to any of their lands in this state, or the avails thereof.

Moneys how to be paid. § 2. All moneys directed to be paid said Indians, or any party or portion of them, by virtue of this act, shall be paid by the treasurer of this state, upon the warrant of the comptroller, to said Indians, or such party or portion of them as shall be justly entitled thereto, in manner as now provided for by law.

Acts to be approved by the governor. § 3. No act of the commissioners of the land office, or a majority of them, to be done under and by virtue of the first section of this act, shall have any force or effect until the same shall be approved by the governor of this state.

Effect of such acts. § 4. The proceedings of the commissioners of the land office, or a majority of them, under and by virtue of this act when approved by the governor as aforesaid, shall have the same force and effect as an act of the legislature, upon the parties concerned therein.

L. 1841, Chap. 234—An act in relation to certain tribes of Indians.

Payments to be made to Caughnawaga and St. Regis Indians. SECTION 1. The commissioners of the land office are hereby clothed with the following powers and duties :

1. To direct the payment in their discretion to the Caughnawaga and St. Regis tribes, representing the seven nations of Canada Indians, or any part or portion of them, of the principal of the annuities, or such portion thereof as the said commissioners of the land office may from time to time deem proper, remaining under the control of this state, for the benefit of said Indians or any part or portion of them.

To Brothertown Indians. 2. To direct the payment of such proportion of the principal of the annuity belonging to the Brothertown tribe of Indians, as that portion of said tribe are entitled to receive, who have removed to Brown county, in the territory of Wisconsin, deducting therefrom such sum, if any, as may appear

to have been heretofore paid to them over and above their just proportion of the annuities payable to said tribe, such payment to be made to the person or persons authorized to receive the same.

To Fish Carrier. 3. To direct the payment of the principal of the annuity due to the Cayuga chief, Fish Carrier.

To hear and determine questions arising in relation to Indians. 4. To hear and determine all questions which may arise in relation to moneys under the control of this state, belonging to any Indian tribe or nation, or individual Indian, or his descendants, or any part or portion of them, and all questions which may arise between the various parties of such tribe or nation in relation to any of their lands in this state, or the avails thereof. And,

To make treaties with Indians. 5. To make such treaties, contracts and arrangements with any tribe or nation of Indians, or with any party or portion of them or with any individual Indian or Indians who have any claim upon any lands in this state, or any money belonging to them under the control of this state, or for the purchase of any portion of such lands as the said commissioners may deem just and proper, or in relation to the expenses of laying out and keeping in repair any public road passing through any portion of the lands occupied by said Indians.

34 Hun, 588; 89 N. Y., 235, 648.

Moneys how to be paid to Indians. § 2. All moneys directed to be paid said Indians, or any part or portion of them by virtue of this act, shall be paid by the treasurer of this state upon the warrant of the comptroller, to said Indians, or such part or portion of them as shall be justly entitled thereto, in manner as now provided for by law.

Acts done under first section to be approved by governor. § 3. No act of the commissioners of the land office to be done under and by virtue of the first section of this act, shall have any force or effect until the same shall be approved by the governor of this state.

Superintendent of Brothertown tribe. § 4. There shall hereafter be appointed only one superintendent of the Brothertown tribe of Indians, who shall possess all the powers and be subject to all the obligations and duties conferred and imposed by law upon the superintendents of the said tribe.

Office of attorney abolished. § 5. The office of attorney to the Brothertown and Stockbridge tribes of Indians is hereby abolished.

Salary of attorney of Oneida Indians. § 6. The attorney for the Oneida Indians shall receive as a compensation for his services the yearly salary of one hundred dollars, to be paid by the treasurer out of the annuity payable by this state to the said tribe, in lieu of all other compensation heretofore provided.

Repeal; \$50 to be applied to support a school. § 7. The forty-fourth section of the act entitled "An act relative to the different tribes and nations of Indians within this state," passed April 10, 1813, is hereby repealed, and the sum of fifty dollars therein directed to be paid to the agent of the Onondaga tribe of Indians, shall hereafter be paid and applied for the support of a school among the said Indians as hereinafter provided.

Actions for trespass on Indian lands how to be prosecuted. § 8. Actions of trespass may be brought in the name of the people of this state, for any trespass committed by any person or persons other than Indians, on land possessed by any Indian or Indians, by the district attorney of the county in which such land is situated, upon security for the payment of the costs of such suit being given to his satisfaction, and the like damages shall be recovered as are now provided by law in cases of wilful trespass, and after deducting expenses, such damages shall be paid to and distributed among the Indians occupying such lands; and any such suit may in like manner be brought by any three of the chiefs of the said tribe, for its benefit, with the approbation in writing of the supervisor of the town where such land is situated, or of any judge of the county courts, the security for costs in the latter case being given and approved by such supervisor or judge.

at any time before or on the return of the first process in such suit, and the like damages as in cases of wilful trespass shall be recovered in such action.

Security for costs where filed. § 9. The security for costs mentioned in the last preceding section in cases where the suit is brought before a justice of the peace, shall be filed with him, and in other cases shall be filed in the office of the county clerk, and the defendant in any such suit to whom any costs may be awarded, may maintain an action on such security for the recovery of such costs.

Common schools to be established on territory of Onondaga Indians. § 10. The commissioners of common schools of the town or towns in which the Indians belonging to the Onondaga tribe may reside, shall set off and erect the territory occupied by such Indians into a separate school district, and shall annually appoint three of the chiefs or head men, to be trustees of such district, and all the provisions of law respecting other school districts shall apply to the district so organized, and to its officers, so far as the same are consistent with the civil condition of said tribe of Indians, except in relation to the election of trustees, and except that a collector and clerk shall be appointed by the trustees, and the amount heretofore directed to be paid to the agent of said Indians, shall be paid to the trustees of such district, and be applied by them to the payment of teachers' wages in such district.

L. 1843, Chap. 185—An act relative to the Oneida Indians.

Indians owning lands to hold the same in severalty. SECTION 1. The Oneida Indians owning lands in the counties of Oneida and Madison, are hereby authorized to hold their lands in severalty, in conformity to the surveys, partitions and schedules annexed to and accompanying the treaties made with the said Indians, by the people of this state, in the year one thousand eight hundred and forty-two, and now on file in the office of the secretary of state; and the lots so partitioned and designated by said survey to the said Indians, shall be deemed to be in lieu of all claims and interest of the said Indians, in and to all other lands and property in the Oneida Reservation, except the mission lot on lot one, and the church lot on lot two, of the Oneida Purchase, of May 23d, 1842, which are to be held by the said Indians as tenants in common.

Superintendent to be appointed. § 2. The governor shall appoint a superintendent of the Oneida Indians, who shall hold his office for the term of two years, subject to be removed for cause.

Indians may sell and convey lands. § 3. It shall be lawful for the said superintendent of the Oneida Indians, upon application made to him for that purpose, by any Indians or Indian owning lands as aforesaid, to sell and convey such lands to the person or persons so applying, provided the price agreed upon between said Indians or Indian and the said person or persons so applying to purchase said lands, shall, in the opinion of the said superintendent, be not less than a fair and reasonable price therefor: And the said superintendent shall receive, at the time of making such sale, not less than one-fourth part of the purchase money in hand, and shall secure the residue by bond and mortgage, payable within four years from the date thereof, with annual interest, to the said superintendent and his successors in office, in trust for said Indians respectively. A deed of an Indian shall be valid to convey the title of himself, his wife and minor children; and every deed executed by virtue of this act, shall be acknowledged by the grantor before the first judge of Madison county, and the consent of the superintendent shall be endorsed thereon; and, when so executed and acknowledged and certified, shall be recorded in the county in which said land shall lie, with the same effect as other deeds.

Superintendent to keep account of debt and credit with Indians. § 4. The said superintendent shall keep a book, in which he shall open and keep a full account of debt and credit with each Indian for whom he acts and for whom he shall receive

any money by virtue of this act, which book shall at all times be open for inspection to all persons; and he shall pay over all money as it shall, from time to time come to his hands, to the Indian or Indians to whom it may rightfully belong, on demand, deducting therefrom his reasonable charges.

His power to sell and convey lands by consent of Indians. § 5. The said superintendent shall, with the consent of a majority of the chiefs and head men of the said Indians, sell and convey the above mentioned lots of land, held according to Indian usages, and sanctioned by treaties with them on the part of the state, as the common property of all the Oneidas who did not cede their lands to the people of this state previous to the treaty made with them, March 8th, 1841, for a fair price, unto any purchaser or purchasers, by requiring from them cash payments. And the conveyances shall be made, executed and acknowledged by the said superintendent; and the consent of the chiefs and head men in council shall also be acknowledged in the presence of an officer duly qualified to take acknowledgments of deeds; and such acknowledgments shall be endorsed on such deeds, in the like manner and to the same effect as conveyances mentioned in the third section of this act; and the money arising from the sale of said common lands, after deducting the reasonable expenses incurred in the survey, description and the partition of all lands which are the subject of this act, and of all the expenses in the negotiation and conclusion of the administration of their public affairs, shall be paid by him to the said chiefs and head men.

Effect of such deeds. § 6. The deeds and conveyances made as aforesaid, shall convey all the right, title and interest of the said Indians or Indian, whose land shall have been conveyed as aforesaid of, in and to the same, and shall vest in the purchaser or purchasers, his or their heirs or assigns forever, an absolute estate of inheritance in fee simple.

Superintendent to give bond with sureties. § 7. Before the said superintendent shall proceed to execute the trust reposed in him by this act, he shall, with two good and sufficient sureties to be approved by the first judge of Madison county execute a bond to the people of this state, in the sum of five thousand dollars, conditioned for the faithful performance of the trust reposed in him by this act; which said bond shall be filed in the office of the comptroller of this state.

To report to comptroller. § 8. The said superintendent shall, on the first Monday of February in each and every year, report to the comptroller of this state, his proceedings under and by virtue of this act, stating his account with each Indian required to be kept as above.

L. 1843, Chap. 228 — An act for the appointment of an agent of the Onondaga tribe of Indians.

Agent of Onondaga tribe; his duties. SECTION 1. There shall be appointed annually by the governor, by and with the advice and consent of the senate, an agent of the Onondaga tribe of Indians, who shall reside near said tribe, and whose duty it shall be to see that the rights and interests of said tribe are duly protected; and generally to perform such duties in relation to said tribe of Indians as the governor from time to time shall direct.

Salary. § 2. Said agent shall be paid out of any moneys of this state applicable to such purposes, an annual salary of fifty dollars.

L. 1845, Chap. 150 — An act for the protection and improvement of the Seneca Indians, residing on the Cattaraugus and Allegany reservations in this state.

Seneca Indians to hold certain reservations as a distinct community, etc. SECTION 1. The Seneca Indians residing on the Allegany and Cattaraugus reservations in this state, shall be deemed to hold and possess the said reservations as a distinct

community, and in and by the name of "The Seneca Nation of Indians," may prosecute and maintain in all courts of law and equity in this state, any action, suit or proceeding which may be necessary or proper to protect the rights and interests of the said Indians and of the said nation, in and to the said reservations, and in and to the reservation called the "oil spring reservation," and every part thereof, and especially may maintain any action of ejectment to recover the possession of any part of the said reservations unlawfully withheld from them, and any action of trespass or on the case, for any injury to the soil of the said reservations, or for cutting down or removing or converting any timber or wood growing or being thereon, or any action of replevin for any timber or wood removed therefrom, and may maintain any action or suit as aforesaid, for the recovery of any damage for any injury to the common property or rights of the said Indians, or for the recovery of any sum of money, property or effects, due or to become due, or belonging, or in any way appertaining to the said Indians in common, or to the said Seneca nation; and where such injury has been heretofore sustained, or any such damages have heretofore been suffered by the said Indians in common, or as a nation, actions therefor, and to recover damages for such wrongs may likewise be brought and maintained as herein provided, in the same manner and within the same time, as if brought by citizens of this state in relation to their private individual property and rights; and in every such suit, action or proceeding in relation to lands or real estate, situated within the said reservations, the said Seneca nation may allege a seisin in fee; and every recovery in such action, shall be as and for, and in reference to a fee; but neither such recovery or any thing herein contained shall enlarge or in any way affect the right, title or interest of the said Seneca nation, or of the said Indians in and to the said reservations, as between them and the grantees or assignees of the pre-emption right of the said reservations under the grants of the state of Massachusetts. And no such action shall be defeated or barred on the ground that any land in relation to which such action is brought, or from which any timber or wood, logs or other property may have been removed or taken, and which may be the subject of any such suit, was in the possession of any individual Indian, but the occupancy of any part of the said reservations by any individual Indian, shall be deemed to have been, and to be the possession of the said Seneca nation; nor shall any license, consent, lease, agreement or any interest whatever, made or given by any individual Indian or Indians, be received in evidence in any such action in bar, defence or mitigation of damages, and when it shall be necessary to bring any such suit before a justice of the peace, the same may be brought and maintained before any such justice, residing in the county where the defendant may be found, whether the cause of action arise in such county or not.

3 T. & C., 348.

An attorney of the said Indians to be appointed; his salary and powers. § 2. The governor shall nominate, and by and with the consent of the senate, appoint, some discreet and proper person, who shall have been a counsellor in the supreme court of this state for three years or more, to be the attorney of the Seneca nation of Indians, who shall hold his office for the term of three years, unless sooner removed by the senate, on the recommendation of the governor. He shall receive a salary of one hundred and fifty dollars annually, to be paid by the treasurer on the warrant of the comptroller, out of any moneys in the treasury not otherwise appropriated. He shall from time to time advise the said Indians respecting controversies between themselves, and between them or any of them, and any other person; he shall prosecute and maintain all such actions, suits and proceedings for them or any of them, as he may find necessary and proper; and it shall be his duty on the written complaint of a majority of the chiefs of the reservation on which a trespass is alleged to have been committed, of any trespass having been committed on the lands in the said reservations, or of any timber, wood, or logs having been cut or carried away, or converted by any person to his own use, immediately to commence the proper suits for the recovery of such property, or of damages for any such injury.

He shall also defend all actions brought against the Indians or any of them by white persons, and shall at all times when requested by them, or any chief, advise them in relation to their affairs. In case it shall be necessary to execute any bond for the prosecution or maintenance of any suit or proceeding in behalf of the said Indians or any of them, or for the defence of any suit or proceeding against them, the said attorney may execute the same in the name and behalf of the said Seneca nation, who shall be bound thereby in the same manner as any citizen may be bound by his lawful agent and attorney in fact; and in case any costs shall be recovered in any action instituted by the said attorney or defended by him against the said Seneca nation, no execution shall be issued for the collection of the same, but the same shall be paid by the treasurer, on the warrant of the comptroller, out of any annuity or interest money payable by this state to the Seneca Indians, upon producing to the comptroller a certificate of the said attorney of such recovery, and a duly certified transcript of the judgment or of the docket thereof, awarding such costs. All sums recovered in any action brought by the said attorney, after deducting such costs and expenses as shall be certified by the circuit judge, or the vice-chancellor of the eighth circuit to be reasonable and proper, shall be paid over to the treasurer of the Seneca nation of Indians, if there be one, and if there be none, then to such person as shall be appointed to receive the same by a majority of the chiefs of the said Indians in full council assembled, such appointment to be certified by the United States agent for the said Indians, if there be one. And the said sums so paid over shall be applied to the benefit of the said Indians as shall be directed by a majority of their chiefs in full council assembled, except that no part of any sum recovered in any such suit shall be paid to or in any way applied for the benefit of any Indian, who shall have been examined as a witness in such suit on behalf of the Seneca nation. And in every suit or proceeding authorized by this act, any individual Indian of the said Seneca nation, may if otherwise competent, be received and examined as a witness on behalf of the Seneca nation, notwithstanding his being a member of the said nation.

[See L. 1847, ch. 365.]

Penalty for selling liquor to Indians. § 3. Every person who shall sell or give to any Indian of the said Seneca nation any spirituous liquor or any intoxicating drink, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than twenty-five dollars, and not more than fifty dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Pawns or pledges for liquor prohibited. § 4. Every person who shall receive from any Indian of the said Seneca nation, either absolutely in payment or exchange, or in pawn or pledge for the payment in whole or in part, for any spirituous liquor or intoxicating drink, sold or delivered, or to be sold or delivered to such Indian or to any other Indian of the said nation, any blanket, wearing apparel, implement or other goods or chattels, shall forfeit ten times the value of the article so received, to be sued for and recovered with costs, by the attorney of the said Seneca nation and in their name, and the amount recovered and collected shall be paid over as hereinbefore directed in respect to sums recovered for the said Seneca nation, and for their benefit; and any Indian of the said Seneca nation shall be a competent witness to prove the receipt of such goods or chattels, and shall also be competent to prove the sale or gift of any intoxicating drink to any Indian of the said nation. And any article or property, sold, exchanged or pawned or pledged as aforesaid, for spirituous liquor or any intoxicating drink, may be reclaimed and recovered by the Indian so selling or pledging the same, from the person to whom the same shall have been sold or pledged, or from any other person to whom the same may have been delivered, assigned, sold or transferred, and for the recovery of the same such Indian may maintain an action in any court having cognizance thereof; and in case such action shall not be brought or commenced within twenty days from the sale or pledge of such article or property, then it shall be lawful for the peace-makers of the reservation to which such

Indian belonged, if any such peace-maker shall be chosen according to the provisions of this act, to demand, sue for and recover the article or property so sold or pledged, in any court having cognizance thereof, in and by their name of office; in which action the Indian who made such sale or pledge shall be a competent witness for the plaintiffs.

[Section 5 was repealed by L. 1847, ch. 365.]

The peace makers may call special meetings. § 6. The peace makers of the two reservations, or a majority of them, may call special meetings of the chiefs of the said Seneca nation, by giving at least ten days notice to each chief, or to some member of his family, of the time and place of such meeting; and the said chiefs, at any annual or special meeting, may determine on the laying out of their lands for separate cultivation, improvement or occupancy, by any Indian and his family, and the quantity to each; and may make by-laws for laying out roads and highways, and making the same; for regulating and protecting or improving their common lands, for regulating fences and preventing trespasses by cattle or otherwise; and may provide a penalty, not exceeding five dollars, for violating or disobeying any such regulation or by-laws; and when any land shall be set apart for any Indian or family, the peace-makers of the reservation shall lay out the same as shall have been directed, or in case specific instructions have not been given, as they shall judge reasonable and proper; and the said parcel shall be marked out and described by them, and the description thereof in writing shall be entered in a book by the said peace-makers, and every parcel so allotted shall remain in the Indian to whom the same was assigned, and his legal representatives, but without the power of alienating or in any way disposing of the same except to some other Indian of the said nation, and when any such sale or disposition shall be made, the same shall be reported to the peace-makers of the reservation and by them entered in the said book. The said chiefs at any such meeting may admit any Indian of any other tribe or nation to become an inhabitant of their reservation and to enjoy the same privileges with them. The peace-makers shall lay out roads and highways as directed at such meetings, and from time to time direct the inhabitants of their reservation to work the same, so many days as shall have been directed at any such annual or special meeting; or in case no apportionment of highway labor upon the inhabitants of any reservation shall have been made at such meeting, then the same shall be made by the peace-makers thereof according to the ability of such inhabitants; suits for penalties for disobeying or violating any regulation or by-law of any annual or special meeting made in pursuance of this act, may be brought by any Indian of the said nation before the peace-makers of the reservation in which the offender may be, and they or a majority of them shall hear and determine the same as in other cases; the sums recovered and collected in any such suit, shall be paid over and applied as may be directed at any annual or special meeting aforesaid.

38 Hun, 628.

Disputes as to who are chiefs how settled. § 7. In case any dispute shall arise at any annual or special meeting aforesaid, as to any Indian being a chief of said nation, the same shall be determined by the vote of a majority of those present, whose title as chiefs shall not be questioned by any parties to such dispute. The chiefs at any meeting may provide a compensation for the clerk not exceeding one hundred dollars per year, to be paid out of their national funds. The clerk shall enter in his book a correct list of the chiefs of the said Seneca nation, under the direction of the existing chiefs, or a majority of them, and shall enter in such book from time to time, the names of those who shall be appointed chiefs, and shall erase the names of such as shall be dismissed, and in case of any dispute as to any person being a chief, the same shall be determined in the manner hereinbefore provided, and such entries shall be conclusive evidence of the fact of any Indian being a chief.

[See L. 1847, ch. 365.]

Trespassers how removed. § 8. A warrant to remove any trespassers or intruders upon any lands in the said reservations, and any warrant to commit any person

for returning to any such lands after being removed, may be issued as now provided by law, by any circuit judge, or by any supreme court commissioner residing in any county adjoining the said reservation.

L. 1845, Chap. 309—An act to provide for the opening and improving roads through the Onondaga Indian Reservation.

Powers of commissioners of highways. SECTION 1. The commissioners of highways of the towns in the county of Onondaga, in which the Indian reservation lays, shall have the same power and jurisdiction over the reservation in their respective towns, to improve highways already laid out as is conferred upon commissioners of highways generally, by part one, chapter sixteen, article four, of the Revised Statutes, except that all decisions of the commissioners shall be served in writing upon the agent of said Indians, and said commissioners shall allow the said agent sixty days to appeal, as provided in the second section of this act.

Right of appeal. § 2. The Indians, through their agent, shall have the right of appeal from the decisions of said commissioners to the judges of the court of common pleas, who shall have full and entire jurisdiction over the whole subject, providing such appeal shall be made within sixty days from the service of notice of the decision of the commissioners upon their agent.

L. 1846, Chap. 114—An act to provide for the education of the children of the Onondaga Indians in the county of Onondaga, and the children of the other Indians residing in this state.

Onondaga Indians. SECTION 1. The agent of the Onondaga Indians in the county of Onondaga, appointed under the authority of this state, is hereby authorized, with the consent of the chiefs of the said tribe of Onondaga Indians, to cause to be built and furnished a good and sufficient school-house on the Onondaga reservation, at an expense not exceeding three hundred dollars, for the accommodation of the Indian children residing on such reservation; and to organize a school therein, and the sum of three hundred dollars is hereby appropriated for the payment of the expense of erecting and furnishing said school-house.

Annual appropriation. § 2. The sum of two hundred and fifty dollars annually is hereby appropriated for the term of five years, for the payment of the wages of a teacher or teachers, and of the other expenses of maintaining such school.

[Sections 3 and 4 were repealed by L. 1847, ch. 238.]

Amounts appropriated by first and second sections how paid. § 5. The sums appropriated by the first and second sections of this act shall be paid from time to time to the said agent of the Onondaga Indians on his giving to the people of this state and filing with the state superintendent of common schools, a bond with satisfactory sureties, to be approved by such superintendent, conditioned for the proper and faithful expenditure of all moneys paid to him, or which shall come into his hands by virtue of this act, and for the rendering to such superintendent annually, in the month of October, a just and true account of all his receipts and expenditures under the provisions of this act.

[Section 6 was repealed by L. 1847, ch. 238.]

[Section 7 is omitted as temporary.]

Payments to be made from U. S. deposit fund. § 8. The sums hereby appropriated shall be paid out of the income of the United States deposit fund; and the last two of the several annual payments herein provided for, shall not be paid for the Indians residing on either of said reservations, unless the Indians on such reservation shall, before such payment in each year, pay into the hands of the persons authorized to receive and expend the monies appropriated by this act, at least

twenty per cent of the sum authorized to be paid annually for the maintenance of the school on such reservation ; nor shall any of the said annual payments except the first, be made unless the state superintendent of common schools shall have satisfactory evidence that a school has been kept in said school house for the term of at least six months during the preceding year ; such twenty per cent shall be expended by such commissioners for the support and maintenance of the school or schools on the reservation, occupied by the Indians paying the same.

Schools subject to visitation. § 9. The schools organized and established by virtue of this act, shall be subject to the visitation and inspection of the superintendent of common schools of the town and county where the same shall be situated.

L. 1846, Chap. 278 — An act in relation to the Indians residing on the Cattaraugus and Allegany reservations.

Selling liquor prohibited. SECTION 1. Every person who shall sell or give to any Indian residing on the Cattaraugus or Allegany reservations any spirituous liquor or any intoxicating drink, shall be deemed guilty of a misdemeanor, and on conviction shall be punished, by a fine, not less than twenty-five dollars, and not more than fifty dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

L. 1847, Chap. 238 — An act making appropriations for building and furnishing school-houses, and providing for the education of the children of Indians, residing on the Cattaraugus and Allegany reservations.

[Sections 1 and 2 are omitted as temporary.]

To be paid from income of United States deposit fund. § 3. The sums appropriated by this act, and all appropriations made, or that hereafter may be made for the education of the children of Indians residing on the Cattaraugus and Allegany reservations, shall be paid out of the income of the United States deposit fund, to Chester Howe, or his successor, on his executing to the people of this state, and filing with the superintendent of common schools, a bond in the penalty of two thousand dollars, with such sureties as shall be approved by the said superintendent, conditioned for the faithful expenditure of, and accounting for all moneys which shall be received by him under this act ; and he shall, annually, in the month of October, render an account to the comptroller, of all receipts and expenditures by him.

Saving clause. § 4. The appropriations made for the education of Indian children residing on said reservations, for eighteen hundred and forty-eight, and thereafter, shall not be expended by the said commissioner, until the chiefs of the Indians residing on the said reservations shall pay to the said commissioner, twenty per cent. of the sums so appropriated, respectively, in each year, to be applied by him to the maintenance of the said schools ; nor shall the sums so appropriated be paid to the said commissioner unless the superintendent of common schools shall have satisfactory evidence that schools have been kept on the said reservations, respectively, for at least six months during the preceding year.

Provision in case Chester Howe declines, etc. § 5. In case the said Chester Howe shall decline to accept the trust hereby conferred, or to execute the bond hereby required, or in case of his death, inability or resignation, the comptroller of this state may appoint some fit and proper person or persons to supply such vacancy, who, upon executing the bond herein required, shall be entitled to receive and expend the moneys hereby appropriated, and shall account for the same in the manner and upon the conditions herein provided.

Schools, by whom to be visited. § 6. The schools established under this act, shall be subject to the visitation and inspection of the county and town superintendents of common schools, of the county and town in which they shall be kept.

[Section 7 repeals prior provisions.]

L. 1847, Chap. 365—An act to amend the act for the protection and improvement of the Seneca Indians residing on the Cattaraugus and Allegany reservations in this state.

Male Indians to meet annually to elect officers. SECTION 1. The male Indians residing on the Cattaraugus and Allegany reservations, of the age of twenty-one years, whose names shall appear on the last preceding census, taken for the purpose of distributing the annuities due to the said Indians, shall assemble at one of their council houses on the first Tuesday in January, in each year, at nine o'clock in the forenoon, and by plurality of votes elect the following officers: A clerk and a treasurer for the nation, three peace makers and one marshal for the Indians residing on the Cattaraugus reservation, and three peace makers and one marshal for the Indians residing on the Allegany reservation, all of whom shall be Indians of the said nation qualified to vote.

Peace makers to preside at election. The peace makers last elected, who shall be present, shall preside in such meeting, and see that the same is conducted with order and regularity: if none of them be present, then such Indian qualified to vote, as shall be chosen for that purpose by those present, shall preside: the clerk of the nation last before elected, shall be the clerk of the meeting, and shall keep faithful minutes of its proceedings and the result of all elections: if he be absent, or his office vacant, then such person as the electors present shall choose for that purpose, shall be clerk of the meeting. The elections shall be held at the council house in Cattaraugus, but a majority of the qualified voters assembled at any election, may direct that any future election be held at the council house in Allegany, and the same shall be so held accordingly.

Qualification of voters. § 2. If any person offering to vote at such election shall be challenged as unqualified, the presiding officers shall determine by an inspection of the last preceding census, taken as aforesaid, upon his right to vote; and if he be challenged on the ground of not being twenty-one years of age, the said officers shall ascertain the fact by the oath of the person offering his vote, or of any other Indian, which oath they are authorized to administer.

Officers chosen by ballot. § 3. The officers herein before named, shall be chosen by ballot, or by ayes and noes upon nomination by any elector, as the meeting may determine.

Tenure of office. § 4. The officers thus elected shall hold their offices for one year, and until others are chosen in their places: if any vacancy shall happen during such year, the clerk of the nation shall within eight days thereafter, call a special meeting of the Indians qualified to vote as aforesaid, for the purpose of supplying the same, by posting in at least five of the most conspicuous places in the said nation, a notice, specifying the time of such meeting, which shall be within fifteen days and not less than ten days after the posting of such notice, at their council house: such meeting shall be held and conducted, and the same officers shall preside, and the clerk shall perform the same duties in relation thereto, as herein provided in respect to annual meetings.

Evidence of election. § 5. The certificate of the election of any officer, signed by the persons presiding at any meeting, or by the major part of them, and by the clerk, shall be conclusive evidence of such election.

Treasurer to give security. § 6. The treasurer shall, within thirty days after his election give security to said nation, by the name of the Seneca nation of Indians, in such sum and with such sureties as the attorney of the said nation shall approve, for the faithful performance of the duties of his office. For any breach of the condition of the said security, an action may be maintained in any court of this state, in the name and for the benefit of the said Indians by their attorney, in the manner provided by law for the breach of official bonds given by any county treasurer: until such security be given, he shall not be entitled to receive any funds or property of the nation; and if the same be not given within the time above provided, the office shall be deemed vacant: the treasurer shall receive all

moneys belonging to the nation, except the annuities paid by the government of the United States or by the government of this state, which shall be paid as heretofore to the chiefs in council, or to a special committee appointed by them, to be by them distributed, according to the customs of the said Indians: the treasurer may retain such per cent of the moneys received by him as the chiefs in council shall determine to be a reasonable compensation for his services: at least five days before the expiration of his office, he shall make an account to the peace makers of all moneys received and expended by him, with the vouchers for such expenditures; which account shall be settled by the peace makers, and shall be publicly read or stated by them at the next annual election for officers.

Clerk's power and duties. § 7. The clerk shall have the custody of all the books, papers, and records belonging to the nation: he shall be furnished by the chiefs with a book of records at the expense of the nation, in which he shall enter all the proceedings and elections of any annual or special meeting of said Indians, and all orders, rules, regulations and certificates made or granted by the chiefs in council, and for that purpose shall attend the meetings of the said Indians, and the councils of the chiefs, and shall be their secretary: all orders of the chiefs for the payment of any money, shall be certified by the clerk to have been duly made, before the same shall be paid by the treasurer, and shall be retained by the treasurer as his vouchers. Every order, certificate, or other matter, certified by the clerk to be true extracts from his minutes, shall be competent evidence thereof: the clerk shall receive such compensation for his services, as shall be allowed by the chiefs in council, not exceeding fifty dollars in any one year.

2 How. Pr., N. S., 464; 38 Hun, 631.

Disputes and controversies how determined. § 8. The peace makers of each reservation shall have authority to hear and determine all matters, disputes, and controversies between any Indians residing on said reservations, whether arising upon contract or for wrongs, and particularly for any encroachment or trespass upon any land cultivated or occupied by any one of them, and which shall have been entered and described in the clerk's book of records. When the controversy is between Indians residing on different reservations, the peace makers of either reservation may take cognizance of the same: but they shall not take cognizance of any claim founded upon any debt or demand originally contracted with a white man. They shall cause the defendant to be brought before them by the marshal, at such times and places as they shall appoint, and shall publicly hear the allegations and proofs of the parties, and make known their determination to them. They may issue orders or notice for the appearance of witnesses, and may compel their appearance by attachment, and by fine for not appearing, in the same manner as provided by law in relation to justices of the peace: they may administer oaths to witnesses, and may examine any party on oath to be administered by them in any case where the opposite party shall require such examination. In case any party shall fail to comply with the determination of the peace makers, within the time prescribed by them, they shall cause the same to be entered in a book to be provided by the chiefs for that purpose, and the party in whose favor such determination may be made, shall be entitled to recover the sum awarded in an action before any justice of the peace of the county in which a copy of such determination, certified by the peace makers, shall be conclusive evidence of the right of recovery, and the same proceedings shall be had therein, and executions shall be awarded in the same cases as in suits between white persons. But the peace makers shall in no case award more than one hundred dollars, exclusive of costs, in favor of any party, in any one complaint or suit. Any two peace makers shall be competent to perform any duties and exercise any powers herein assigned to the peace makers of any reservation.

Saving clause. § 9. No peace maker shall act in any case in which he is related to either of the parties, or have any interest in the controversy, and when such relationship or interest in any two peace makers is established to the satisfaction of the other, he shall associate with him any two chiefs residing on the reservation not related to the parties, and not having any interest in the controversy, for

the hearing and determination of the suit, and such peace makers and the chiefs so appointed, or the majority of them, shall have all the powers and authority herein conferred upon the peace makers, in relation to such suit.

Right of appeal. § 10. Any party dissatisfied with the determination of any tribunal so constituted, or of the peace makers in any suit, may appeal therefrom to a jury of six chiefs, to be selected as follows: Upon giving security to be approved by a peace maker to pay the amount that shall be awarded by such jury; the tribunal whose decision is appealed from, shall direct the marshal to summon twelve chiefs to be designated by such tribunal, to appear at a time and place to be specified not more than ten days thereafter, to determine such appeal: on the appearance of the chiefs so summoned, six of their number shall be drawn by lot to hear such appeal; if it be established to the satisfaction of the tribunal which summoned the said chiefs, that any of them are related to either of the parties, or are interested in the controversy, they shall be set aside, and other chiefs shall be drawn instead of them. The jury thus constituted, shall hear the appeal, examine the witnesses and parties on oath, if required, in the same cases and in like manner as herein provided, in respect to the peace makers, and the determination made by them, or a majority of them shall be conclusive, and shall be entered in the book kept by the peace makers, and may be enforced in like manner, and upon the like evidence as in the case of a determination by the peace makers. The chiefs hearing such appeal, shall each be entitled to receive twenty-five cents for their services, to be paid in the first instance by the party appealing: in their final determination, they shall direct which party shall pay the costs and expenses of the suit and of the appeal.

Fees to be paid to treasurer. § 11. The peace makers shall not receive any fees for their services to their own use, but all such fees shall be paid to the treasurer of the nation for its use: and in every controversy before them, they shall award the costs to be paid by the party against whom their determination shall be made; which costs shall consist of the fees of the marshal as herein provided; and fifty cents for the attendance of the peace makers at any hearing of the parties, and if the same shall be adjourned, twenty-five cents for their attendance on the first appearance of the parties: the costs allowed shall be ascertained and specified by them in their determination.

Allowance to peace makers. § 12. There shall be allowed to each of the peace makers by the chiefs in council, an annual compensation not exceeding fifty dollars in any one year, to be paid semi-annually by the treasurer.

Duty of the marshal. § 13. The marshal shall execute all orders, summons and process issued or given to him by the peace makers or by any tribunal created according to the provisions of this act, and shall be entitled to receive for his services the same fees as are allowed by law to constables in courts held by justices of the peace.

Demands, how to be recovered. § 14. For any demand or right of action which any Indian of the said nation may have against any other Indian, and which, according to the provisions of this act, exceeds the amount which may be awarded by the peace makers, actions may be maintained and prosecuted in the courts of this state in the same manner and with the like effect as between white citizens.

Names of chiefs omitted to be entered. § 15 Any chiefs whose names have not been entered in the book kept by the clerk for that purpose, shall be entitled to have the same so entered: and if the fact of their being chiefs shall be disputed by any other chief, such fact shall be determined by the chiefs in council; but this provision shall not be construed to authorize them to depose any such chief, or to determine upon the propriety or expediency of entering his name.

Penalty for false swearing. § 16. Any wilful false swearing by any person to whom any oaths may be administered according to the provisions of this act, shall be deemed perjury, and punished as such in the manner provided by law. And any person who shall unlawfully and corruptly procure such false swearing, shall be deemed guilty of subornation of perjury, and shall be punished as provided by law.

Provisions as to unimproved lands. § 17. No land within the said reservations not already cultivated and improved, or under fence, shall hereafter be appropriated by any Indian to his own use, without the consent of the chiefs in council; whose duty, however, it shall be, on application, to allot and set apart for any Indian family, so much wild land as the chiefs shall deem reasonable and an equitable proportion, in reference to the whole number of Indians not possessing land.

Lands appropriated for the use of families. § 18. Lands in the said reservations which are appropriated by any Indian or family to their own use, and cultivated and improved by them, shall, within two years after this act takes effect, be described by the person or persons claiming the same, with convenient certainty, and be entered in the books of record kept by the clerk of the said nation, and if not so entered, the claimant thereof shall not be entitled to maintain any suit for encroaching or trespassing thereon.

[Section 19 was repealed by L. 1859, ch. 294.]

Provisions as to shingles and staves. § 20. Any Indian residing on the said reservations may, without the aid or assistance of any white man, manufacture shingles or staves from any timber being, or any trees growing, upon any wild land therein, not allotted to, or entered by any other Indian, or being or growing upon any land allotted to, or entered by him, and may sell and dispose of the same for his own benefit. But no white person shall, under the pretence of being hired by any Indian, or any other pretence, be employed in any such manufacture, or in removing any timber, or cutting down any trees for that purpose.

6 T. & C., 595; 4 Hun, 217.

General provision relative to the sale of trees. § 21. No timber being on any part of the said reservation, no trees growing thereon, nor any manufacture thereof, shall be sold or disposed of by any individual Indian or Indians, except as herein before provided; and every such sale or disposition shall be absolutely void. Any sale or disposition of such timber or trees, being or growing upon any wild land, in the said reservations, made by the chiefs in council, shall be for the benefit of the nation, and the proceeds of any such sale or disposition, shall belong to, and be paid into its treasury. And the attorney for the said Indians shall be authorized to prosecute for the same, and for the price of any timber or trees unlawfully sold, in the name of the nation, and to recover the amount thereof from any person who shall have received the same.

3 T. & C., 347.

Actions how to be prosecuted. § 22. The proper action in the name of the said nation, may be prosecuted and maintained by the attorney for the said Indians, for any timber or trees, or the manufacture thereof, sold, taken or carried from the said reservations, in any other case than as herein provided and allowed, and shall recover, in such action, double the value of the timber, trees or article manufactured from them so sold, or taken, or carried from either of the said reservations.

6 T. & C., 595; 4 Hun, 217.

Suits brought by the Indian attorney. § 23. If any suit shall be brought by the said attorney for the said Indians, without the assent of the chiefs in council, or of six of the said chiefs, when no council is held, he shall not be entitled to demand of the said nation, the costs of such suit, in the event of his failure to recover, or of his inability to collect the same of the defendants.

[Section 24 is omitted as temporary.]

Repeal. § 25. Section five of the "Act for the protection and improvement of the Seneca Indians, residing on the Cattaraugus and Allegany reservations," passed May 8, 1845, and so much of sections two and seven, of the said act, as is inconsistent with the provisions of this act are hereby repealed.

L. 1847, Chap. 416 — An act in relation to the Oneida Indians.

Conveyances to be made declared valid. SECTION 1. All conveyances of real estate hereafter executed by any Oneida Indian or Indians may be acknowledged before any justice of the peace, or other officer authorized to take acknowledgments of deeds.

Office of attorney abolished and superintendent to perform the duties. § 2. The office of attorney for the Oneida Indians is hereby abolished, and the superintendent of said Indians, in addition to his present duties, is hereby authorized and required to perform the duties heretofore required of such attorney, and shall be entitled to receive an annual salary of twenty-five dollars, and no more, for all services he may perform for said Indians.

Salary allowed for his services. § 3. Twenty-five dollars a year for two years are hereby appropriated to pay said salary out of any moneys in the state treasury not otherwise appropriated; but said office of superintendent shall not continue beyond two years from the passage of this act; and thereafter said Indians shall have power to sell and convey their real estate, the same as if they were natural born citizens of this state.

L. 1848, Chap. 36 — An act to authorize the Syracuse and Tully Plank Road Company to construct their road on the highway running through the lands belonging to the Onondaga Indians.

Indians to pass toll free. § 2. All Indians residing on said reservation, or belonging to the Onondaga tribe of Indians, shall at all times be permitted to pass over so much of said road as shall be within the bounds of said reservation, and through the gate erected on said road and within said reservation, with their teams and vehicles, free of any charge or toll, whatever; but in regard to the residue of said road and the gates thereon, they shall stand on the same footing with the other inhabitants of the county of Onondaga. [*Thus amended by L. 1858, ch. 369.*]

[The above section, only, pertains to Indians.]

L. 1848, Chap. 208 — An act appropriating money to the Stockbridge Indians.

The sum of \$10,000 to be set apart. SECTION 1. The sum of ten thousand dollars is hereby set apart and appropriated out of any moneys in the treasury not otherwise appropriated to the use and benefit of the Stockbridge tribe of Indians, now residing in Calumet county, Wisconsin, in consideration of the profits accruing to the people of this state, in the purchase and sale of lands heretofore belonging to said tribe of Indians.

Part how to be invested. § 2. Six thousand dollars of said sum shall be retained in the treasury of this state, and invested by the comptroller in such of the public stocks of this state, or of the United States, or of the cities of New York or Albany, as the comptroller shall deem most advantageous, and to be kept as a school and gospel fund, of the said Stockbridge Indians, the interest of which at six per cent shall be paid by the treasurer on the warrant of the comptroller, on the first day of June of each year hereafter, to the chiefs or head men of the tribe, or their attorney, or through such agent residing in the vicinity of such Indians as shall be authorized by the comptroller for that purpose, to be applied for the support of schools, and their moral and religious education.

Part to be paid to chiefs. § 3. One thousand dollars of said sum shall be paid by the treasurer, on the warrant of the comptroller, out of any moneys not otherwise appropriated, to the chiefs or head men of such tribe of Indians or their attorney,

to be applied to pay the expenses of removing with their consent such of said tribe of Indians as are now remaining in this state, to Calcutt county, Wisconsin, and the remaining sum of three thousand dollars shall be paid in like manner to the said chiefs or head men or their attorney, to be equally divided amongst the several families according to their respective numbers.

Concurrent resolutions of the legislature, recognizing a new government for Indians on the Cattaraugus and Allegany reservations.

STATE OF NEW YORK.

In Assembly, March 27, 1849.

WHEREAS, It appears from the communication of his Excellency, the Governor, made to the legislature on the 20th day of March, instant, that a portion of the native Indians residing in this state, on the Cattaraugus and Allegany reservations, met in convention, and on the 4th day of December last, formed a constitution for their government, founded on popular elections, and thereby abrogated their former government by chiefs; and, it further appearing that such new constitutional government has been recognized by the government of the United States, as the government, de-facto, of said Indians, therefore,

Government recognized. *Resolved,* (If the senate concur,) That the recognition by the government of the United States of the new constitutional government lately formed by the Indians residing on the Cattaraugus and Allegany reservations, establishes the new government as that which the state of New York must receive and acknowledge in its dealings with said Indians, and that the officers of this state ought, and are hereby instructed, to respect such new government accordingly.

Annuity to Senecas, how to be paid. *Resolved,* (If the senate concur,) That in future the annuity, which, under the treaty with the Senecas, is made payable to the chiefs of that nation, hereafter be paid by the treasurer, on the warrant of the comptroller, to the order of such officer or agent as shall, under the said new constitution, be appointed to receive the same and give proper discharges therefor.

By order,

PHILANDER B. PRINDLE,

Clerk of Assembly.

In Senate, April 6, 1849.

Resolved, That the senate do concur in the foregoing resolutions.

By order of the senate,

A. H. CALHOUN, *Clerk.*

L. 1849, Chap. 378—An act in reference to the new government of the Seneca nation of Indians on the Cattaraugus and Allegany reservations.

All powers transferred to the president and councillors of the nation. SECTION 1. All the powers and duties which by any laws of this state are granted to or charged upon the chiefs of the Seneca nation of Indians, residing on the Cattaraugus and Allegany reservations in this state, are hereby transferred and granted to and charged upon the president and councillors of the Seneca nation of Indians, holding or who shall hold office under the constitution of said nation, of the fourth day of December last, and all powers and duties granted to or charged upon said chiefs in council by the laws of this state, are hereby transferred and granted to and charged upon such president and councillors in council assembled.

38 Hun, 628.

L. 1849, Chap. 420 — An act for the benefit of Indians.

Penalty for giving liquor to Indians. SECTION 1. Every person who shall sell or give to any Indian within this state, any spirituous liquor, or any intoxicating drink, shall be deemed guilty of a misdemeanor; and on conviction shall be punished by a fine of not less than twenty-five dollars, nor more than fifty dollars, or by imprisonment in the county jail of not more than thirty days, or by both such fine and imprisonment. [*Thus amended by L. 1857, ch. 614.*]

Provision relative to pawns or pledges made by Indians for liquor; any Indian a competent witness; duty of peace makers. § 2. Every person who shall receive from any Indian residing on any Indian reservation within this state, or any Indian residing in this state, either absolutely in payment or exchange, or in pawn or pledge for the payment, in whole or in part, for any spirituous liquor or intoxicating drink, sold or delivered to such Indian, or to any other Indian, any blanket, wearing apparel, implement, or other goods or chattels, shall forfeit ten times the value of the article so received, to be sued for and recovered, with costs, by such agent as shall be appointed by the authority of the tribe or band to which such Indian shall belong, or with which he shall reside; or by the attorney (if any) appointed by the authority of this state for such tribe or band, and in the name of such tribe, or of the people of the state of New York. And if there be no such attorney or agent, such suits shall be prosecuted by the overseers of the poor of the town in which such Indian shall reside, in and by their name of office. Any Indian shall be a competent witness to prove the receipt of such goods or chattels, and to prove the sale or gift of any intoxicating drink to any Indian. Any article or property sold, exchanged, or pawned, or pledged as aforesaid, for spirituous liquor, or any intoxicating drink, or the value thereof, may be reclaimed and recovered by the Indian so selling or pledging the same, from the person to whom the same shall have been sold or pledged, or from any other person to whom it may have been delivered, assigned, sold, or transferred; and for the recovery of the same such Indian may maintain an action in any court having cognizance thereof. And in case such action shall not be brought or commenced within twenty days from the sale or pledge of such article or property, then it shall be lawful for the peace makers of the reservation (if any there be) to which such Indian belonged; and if none, for the overseers of the poor of the town to demand, sue for and recover, the article or property so sold or pledged, in any court having cognizance thereof, in and by their name of office; in which action the Indian who made such sale or pledge shall be a competent witness for the plaintiff.

Part of R. S. and other laws to apply. § 3. The first title of the eighth chapter and second part of the Revised Statutes, "of husband and wife," and all laws in addition to or amendatory thereof, and the act entitled "An act to punish seduction as a crime," passed March 22, 1848, are hereby extended over and made applicable to all Indians residing within the state of New York, with the same force and effect as if they were citizens of this state, and the same courts having jurisdiction under those laws in cases of citizens, shall have jurisdiction in like cases in which one or more Indians may be concerned.

Provision respecting marriage among Indians. § 4. All Indians who heretofore contracted or shall hereafter contract marriage, according to the Indian custom or usage, and shall cohabit as husband and wife, are and shall be deemed and held to be lawfully married, and their children legitimate. Marriages between Indians may be solemnized by peace makers within their jurisdiction, with the like force and effect as if by a justice of the peace.

Powers of courts of special sessions. § 5. Courts of special sessions shall have jurisdiction and power to hear and determine charges for misdemeanor committed within their respective counties, in violation of any statute prohibiting the selling or giving to any Indian any spirituous liquors or intoxicating drinks, and shall proceed thereon in the manner prescribed in the third title of the second chapter,

and fourth part of the Revised Statutes, as amended by subsequent laws, except that such courts shall have and exercise such jurisdiction and power, without requiring the party charged to give bail for his appearance at the next criminal court, and the giving of such bail shall not deprive the said courts of special sessions of the said jurisdiction and power. [*Thus amended by L. 1857, ch. 614.*]

Fines, how recovered and to whom paid. § 6. When any fine shall be imposed upon a conviction for any such misdemeanor, the costs and expenses of prosecuting the same shall first be paid out of any such fine, and one moiety of the residue shall be paid into the treasury of the nation of Indians to which the Indian to whom such liquor or drink was sold or given shall belong, or with which he shall be residing, and if there shall be no such treasurer then to the chiefs of the tribe or nation to which the Indian belongs, or with which he was residing to whom such liquor or drink was sold or given, to be applied to the public purposes of such nation or tribe, and the other moiety shall be paid into the treasury of the county where the conviction shall be had.

Nations or tribes of Indians in this state, how to hold land. § 7. All nations, tribes, or bands of Indians who own and occupy Indian reservations within this state, and hold lands therein as the common property of such nations, tribes, or bands, may by the acts of their respective Indian governments, divide such common lands into tracts or lots, and distribute and partition the same, or parts thereof, quantity and quality relatively considered, to and amongst the individuals or families of such nations, tribes and bands respectively, so that the same may be held in severalty and in fee simple, according to the laws of this state; but no lands occupied and improved by any Indian according to the laws, usages or customs of the nation, shall be set off to any person other than the occupant, or his or her family.

Deeds of partition, how made and by whom. § 8. In case such distribution or partition be made, the deeds to be made to effect the same shall be made by such officers, agents or commissioners as said governments shall appoint, and the commissioners of the land office shall approve, but before any such deeds be executed, the proceedings and acts authorizing such execution and appointing the parties so to do, shall be authenticated and proved before and to the satisfaction of the county judge of the county in which the lands to be conveyed shall lie, and recorded in the clerk's office of the county.

Deeds to be acknowledged and examined by judge. § 9. Every deed which shall be executed under and in pursuance of such authority, shall be acknowledged before such county judge by the parties who shall execute it, and said judge shall examine such deeds, and see that they be in due form, and in pursuance of the authority under which they be executed; and endorse on each deed his certificate of such examination and acknowledgment, and such certificate shall authorize the county clerk to record such deeds in the records of deeds for his county.

Restriction. § 10. No lands thus distributed and partitioned, shall be alienable by the grantee thereof or the heirs of such grantee for twenty years after the day of the recording of the said deed thereof; but they may be partitioned amongst the heirs of any grantee who shall die. They shall not be subject to any lien in* incumbrance by way of mortgage, judgment or otherwise.

Commissioners of the land office to receive money to be put in trust with the state, etc. § 11. The commissioners of the land office are hereby authorized and directed to receive from the Seneca nation, or any nation, tribe or band of Indians residing within this state, all such sums of money as such Indians may wish to put in trust with the state of New York, and the same shall be paid into the treasury, and by and under the direction of the commissioners of the land office, vested in good and safe securities by the comptroller, or in stocks of this state bearing interest at the rate of six per cent., to be created and issued therefor, and called "The Indian Loans;" but such moneys shall not be so received except

* So in the original.

upon the condition that the interest or income of such moneys be paid over and applied under the direction and at the discretion of the commissioners of the land office, for the encouragement of religion and promotion of education amongst the Indians, and for other purposes of public interest, use and benefit, being fit and proper objects of taxation as matters of general and public concern.

L. 1850, Chap. 37—An act establishing a fund for the benefit of the Stockbridge Indians.

Thirty thousand dollars credited to Indians. SECTION 1. The comptroller shall place to the credit of the Stockbridge Indians, on the books of his office, the sum of thirty thousand dollars, to remain in the treasury or be invested in the name of the people, by or under the direction of the commissioners of the land office, as shall be directed by the legislature.

Six per cent to be paid annually. § 2. Six per cent per annum on said sum of thirty thousand dollars shall be paid by the treasurer, on the warrant of the comptroller, annually, to the chief sachem and head men of said tribe or nation, or upon their order, or the order of a majority of them, to be by them expended in promoting the christian religion, general education, agriculture and the mechanic arts among their people, and in promoting the general welfare of their tribe or nation.

Chief sachem with head men to be certified. § 3. Before any money shall be paid by this act (except as provided in the fifth section thereof), it shall be the duty of the chief and head men of said tribe or nation of Indians to cause to be filed in the office of the secretary of state of this state, a certificate duly acknowledged as hereinafter provided, setting forth the name of the chief sachem and of the head men of said tribe or nation; which certificate shall be filed annually immediately after their annual election, and shall be signed by the chief sachem and head men who shall be in office at the time said election shall be held.

Certificate to be acknowledged. § 4. Such certificate, and the order mentioned in the second section of this act, shall be duly acknowledged by the chief sachem and head men of said tribe or nation, or a majority of them, before some person legally authorized to take the acknowledgment of deeds to be recorded in this state.

[Section 5 is omitted as temporary.]

Commissioners of land office to have control of \$6,000. § 6. The sum of six thousand dollars mentioned in the second section of the act entitled "An act appropriating money to the Stockbridge Indians," passed April 10, 1848, and the income thereof, is hereby placed under the direction and control of the commissioners of the land office, with the same powers as are given to them in this act in reference to the other moneys herein mentioned.

Commissioners to report to legislature. § 7. The commissioners of the land office shall report annually to the legislature all their proceedings under this act, and all other acts which confer upon them powers in reference to Indian affairs.

L. 1851, Chap. 198—An act to authorize the Cayuga nation of Indians to purchase lands in this state.

Lands how purchased and held; adoption of other Indians. SECTION 1. The chiefs of the Cayuga nation of Indians, are hereby authorized and empowered to purchase lands in this state, and to take a deed of the same, in the name, and on behalf of said nation. The lands purchased under this act, shall be the property of, and belong to the said Cayuga nation of Indians, and to be held by them in common, and as all reservations of lands are held by other tribes of Indians in this

state, subject however, to be divided and distributed among said Indians, in pursuance of the laws of this state, passed April eleventh, one thousand eight hundred and forty-nine, chapter four hundred and twenty; but the said Cayuga nation of Indians, shall not have power to alienate said lands; the deed of the said tract of land so purchased shall be filed and recorded in the office of the secretary of state, and an exemplified copy of the same shall be delivered to the said chiefs for the use of said nation; said deed shall also be recorded in the county clerk's office of the county in which said lands shall lie. The Cayuga nation of Indians shall have power to incorporate and adopt into their nation, any Indian or Indians of other tribes of the six nations of Indians, or those intermarried with them, or any of them, and their children, upon such terms as the council of the chiefs of said nation shall deem proper, such person or persons after being adopted into said nation, shall have all the rights, privileges and immunities of the Cayuga nation of Indians, as if they had been born Cayugas.

Lands how paid for. § 2. The commissioners of the land office shall pay on the order of said chiefs, such sums of money agreed upon by the parties for said lands, out of the annuities payable by this state to the said Cayuga nation of Indians, and the said commissioners of the land office, shall have power to advance such annuities, a sum which will be sufficient to pay for the lands so purchased, provided it shall be deemed proper, and for the best interest of said Indians; but no contract made with the said Cayuga nation of Indians, shall be binding upon said nation, without the advice and consent of the said commissioners of the land office.

L. 1852, Chap. 19 — An act to make partition of the fund provided by the act entitled "An act establishing a fund for the benefit of the Stockbridge Indians," passed March 2d, 1850.

Money to be paid to the Indians. SECTION 1. There shall be paid by the treasurer, on the warrant of the comptroller, of the fund provided by the act entitled "An act establishing a fund for the benefit of the Stockbridge Indians," passed March 2d, 1850, the sum of eighteen thousand dollars and interest thereon as follows: To John W. Quinney and John Haddocks, being the agents of said Indians, the sum of nine thousand dollars and interest, to be by them expended in paying the debts of said tribe, and in promoting their general welfare, and the sum of nine thousand dollars and interest thereon, to such agent as may be duly appointed, by that portion of said Indians known as the "Citizen Party," to be paid to the members of the said Citizen Party of Stockbridge Indians, by the head.

Perpetual fund. § 2. The remainder of said fund, after deducting the sums above specified, shall be and remain a perpetual fund for the exclusive benefit of said tribe of Indians, the interest of which shall be paid to the sachem and councillors of said tribe, as now provided by law.

[Section 3 is omitted as temporary.]

L. 1853, Chap. 444—An act to provide for the establishment of schools upon the Tonawanda reservation, in this state, for the instruction of Indian children.

Money to be paid for Indian schools. SECTION 1. The treasurer shall pay on the warrant of the comptroller, to the order of the state superintendent of common schools, the sum of one thousand dollars, for the purpose of repairing and enlarging such school-houses as have heretofore been erected for Indian schools on or near the Tonawanda reservation, in the county of Genesee, and for erecting such additional buildings as shall be necessary for establishing two boarding schools, one for boys and one for girls, on said reservation, to be paid to such persons as shall be appointed, as hereinafter provided, as trustees of such schools; the schools

to be for the instruction of Indian children between the ages of four and eighteen years.

Trustees and their duties. § 2. The trustees of said schools on said reservation shall consist of two individuals, to be elected annually by the legislative council of said reservation, together with three white citizens, on or near said reservation, to be appointed by the state superintendent of common schools, and to hold their office during his pleasure, whose duty it shall be to locate the school-houses on or near the said reservation, to cause suitable buildings to be erected for said schools, or to repair such buildings as are already erected for school purposes, and to have the general supervision of said schools; to report annually the condition of said schools and the number of children taught to the state superintendent of common schools, and such other information as the state superintendent shall direct.

Farm to be set apart for male school; also for female school. § 3. There shall be connected and set apart, by and with the consent of the Indians, a farm for the male school on said reservation, not exceeding eighty acres nor less than fifty acres of land, and for the female school twenty acres of land; and the male members of said school, during the hours not appropriated to literary studies, shall be taught in the science of practical agriculture; and the members of the female school, in addition to their common studies, shall be taught and instructed in domestic duties.

Trustees to receive the money, upon complying with certain conditions. § 4. The said sum of one thousand dollars shall be paid over to the trustees of the Tonawanda schools, in the manner prescribed in the first section of this act, whenever the trustees, or any two of them, shall verify by affidavit that the said sum of one thousand dollars has been expended in erecting, repairing or furnishing suitable buildings for said schools, or so much thereof as shall be expended for the above purposes, within one year from the passage of this act.

Schools to be put in operation. § 5. The trustees may put in operation any one or more of said schools, as soon as suitable buildings can be procured; there shall be four terms, of eleven weeks each, in each year, and the said trustees shall report at the expiration of each term the whole number of scholars taught in each school, the number of days each scholar has attended, and the average number of scholars for the term; and, upon the receipt of such report by the state superintendent of common schools, the sum of twelve dollars and fifty cents for each scholar the said schools shall so average, but not to exceed the sum of two hundred and fifty dollars, in all, for any one quarter, shall be paid to the said trustees, in the same manner as provided by the first section of this act; which sum or sums shall be paid out by the trustees, in such manner as they shall deem proper, for the purchase of books, stationery, apparatus, food, clothes and other necessaries for said schools.

Proceeds of farms, how appropriated. § 6. The proceeds of said farms as shall be attached to said schools shall be appropriated to the support of said schools.

[Sections 7 and 8 are omitted as temporary.]

L. 1853, Chap. 601 — An act to establish the Seneca Indian high school on Cattaraugus reservation.

Board of education. SECTION 1. For the purpose of establishing and maintaining a high school on the Cattaraugus reservation, for the education of the youth belonging to the Seneca nation of Indians, Maris B. Pierce, Daniel Two-guns, William Krouse, Lewis Seneca, Nathaniel T. Strong, George W. Clinton, Philip E. Thomas and John C. Spencer, and their successors, are hereby constituted a body corporate, by the name of "The board of education of Seneca Indian high school," and shall possess all the powers and be subject to all the provisions contained in first three sections in the third title of the eighteenth chapter

and first part of the Revised Statutes, and be capable of taking and holding, by gift, grant or devise, real and personal property, to be applied to the purposes of the corporation, the annual income of which shall not exceed five thousand dollars.

First trustees. § 2. The persons named shall be the first trustees of the said corporation, and shall supply any vacancies that may occur in their number by their own appointment. Five of their number shall constitute a quorum for the transaction of business.

L. 1854, Chap. 175 — An act to prevent the destruction of timber on the lands of the Tuscarora Indians, and to regulate the highway labor among said Indians.

Lands, how to be allotted hereafter. SECTION 1. No lands belonging to the Tuscarora nation of Indians, in the county of Niagara, not already cultivated and improved, shall hereafter be appropriated by any Indian to his own use without the consent of the chiefs or head men of said nation, in council; whose duty, however, it shall be, on application, to allot and set apart for any Indian or Indian family, not possessing land, so much wild land as the chiefs shall deem reasonable and equitable.

What timber may be sold. § 2. Any Indian residing on said lands, having land allotted to him by the chiefs or entered as herein provided, may, with the consent of the chiefs, sell for his own use and benefit any timber or trees on that portion of such lands which he shall actually and in good faith clear for the purpose of cultivation.

Sales of timber on uncultivated land void. § 3. No timber being on any part of said lands, no trees growing thereon nor any manufacture thereof shall be sold or disposed of by any individual Indian or Indians, except as hereinafter provided, and every such sale or disposition shall be absolutely void; and any sale or disposition of such timber or trees, being or growing upon any wild land belonging to said Indians, made by the chiefs in council, shall be for the benefit of the nation, and be paid to said chief or such chief as the council may appoint as their treasurer, and the said chiefs shall be authorized to prosecute for the same, and for the price of any timber or trees unlawfully sold, in the name of the nation, and to recover the amount thereof from any person who shall have received the same.

Actions for timber, how brought. § 4. The proper action in the name of the said nation may be prosecuted and maintained by the chiefs for any timber or trees, or the manufacture thereof, sold, taken or carried from the lands of the said nation in any other case than is herein provided and allowed, and shall recover in said action double the value of the timber, trees or article manufactured from them, so sold, taken or carried from said lands.

Allotments to be entered in book. § 5. The chiefs of said nation, in council, may from time to time appoint a clerk, who in a book kept for that purpose shall from time to time enter all allotments of lands set apart for any Indian or Indian family, and of the part and portion thereof from which said Indian or Indian family may sell for his own use any timber and trees, and the part he may be permitted to clear for the purpose of cultivation, and in which all consents for the selling of timber shall be entered.

Indians cutting timber to be deemed trespassers. § 6. Any Indian who shall cut or destroy any timber or trees standing or growing on any timbered lands of the said nation, not set apart for the purposes of cultivation by the chiefs in council, or without the consent of the chief, shall be deemed a trespasser and liable to be prosecuted for the same by the chiefs, in the name of the nation, in any court having cognizance of such actions in this state, and in such action may recover twice the value of timber so cut down and destroyed, and the amount of such

recovery shall be collected for the benefit of the said nation; and, in such action, judgment may be rendered on such recovery, and executions issued, in the same manner as against citizens of the state of New York.

[Section 7 repealed by L. 1886, ch. 593.]

Highway labor. § 8. The said chiefs in council may, at any time before the first day of July, in each year, appropriate such amount of highway labor upon each and every male Indian, over the age of twenty-one years, as they shall deem just and reasonable, not exceeding fifteen days upon any one individual in any year; the number of days' work, and the name of the individual assessed, shall be entered upon a roll to be made and signed by the said chiefs or the president of the council under their direction; the said chiefs may also designate suitable person or persons under whose directions the said labor shall be applied, and the plan and manner of its application; the person or persons so designated shall give notice to those assessed to perform said labor, and of the time of performance and when to be performed, at least twenty-four hours before the time; and in case any person so assessed, after being so notified, shall neglect or refuse to perform the said labor, he shall forfeit seventy-five cents for each day's labor so assessed, to be recovered by an action in the name of the nation, in which action the said assessment roll shall be conclusive evidence of the regularity of the assessment; and, for the purposes of said action, the said Indians shall be regarded as inhabitants of the town of Lewiston, Niagara county, and the proceedings in said action shall be the same as in actions between citizens of this state; and in case it becomes necessary to serve any paper upon the said nation as a party, it shall be served by delivering such paper to any two chiefs personally.

L. 1854, Chap. 301 — An act relating to schools on the Tonawanda reservation.

Board of Education. SECTION 1. The trustees of schools on the Tonawanda reservation in this state, authorized to be elected and appointed by chapter four hundred and forty-four of the Laws of eighteen hundred and fifty-three, and their successors in office, shall constitute a board of education for said tribe of Tonawanda Indians, and are hereby constituted a body politic and corporate by the name and style of "The board of education of Tonawanda," and said board of education, besides the general powers and privileges of a corporation, shall have authority:

Property. 1. To take and hold by gift, grant or devise, any real or personal property from said tribe of Tonawanda Indians, or from any one of them, or from any other person, such lands not to exceed one hundred acres, to be used for the purposes of such school as shall be established by said board of education.

By-laws. 2. To make and establish by-laws, rules and regulations for the purpose of the government of the schools under their care, including the departments of literature, agriculture and domestic arts.

3. To appoint of their number a president and secretary.

4. To adjourn from time to time, as they may deem expedient.

5. To receive and apply the moneys appropriated for the support of schools under their care.

Appropriations. § 2. The treasurer shall pay, on the warrant of the comptroller, to the order of the state superintendent of public instruction, the sums of money appropriated by chapter four hundred and forty-four of the Session Laws of eighteen hundred and fifty-three to erect school-houses and provide for the support of schools for the instruction of Indian children, which sum shall be paid out of the surplus income of the United States deposit fund at such time, within

two years after the passage of this act, as the state superintendent of public instruction shall deem proper, and be applied to erect school-houses, necessary dwellings, pay rent or teachers' wages, as shall be, in the opinion of said superintendent, necessary to establish and secure the prosperity of such schools; and if said superintendent shall deem it expedient, any part of such sums may be advanced to said board of education, and applied to any of the purposes specified in this act, under the direction of said superintendent.

Bond. § 3. The said trustees appointed by the state superintendent, before receiving any moneys under this act, shall execute to the people of this state, and deliver to said superintendent, a bond in the penalty of six thousand dollars, with two good and sufficient sureties who shall justify in the said sum of six thousand dollars, and be approved of by said superintendent, conditioned that said trustees so appointed will faithfully discharge their duty as such trustees, and will, at all times when called upon by said superintendent, account for all moneys received by them under the provisions of this act.

L. 1855, Ch. 26—An act to prevent the sale or removal by Indians or other persons, of stone, wood, timber, or bark, from the Onondaga Indian reservation.

Certain contracts void. SECTION 1. All contracts which shall hereafter be made by any person or persons other than Indian, with any Indian or Indians of the Onondaga nation, or with any Indian of any other nation or tribe residing or living with said Onondaga Indians, without the written consent of the agent of said Indians, for or concerning any stone, or any wood, timber or bark of any kind, growing or being on the lands of said Onondaga nation, or that may have been taken or removed from said lands, shall be absolutely void. And any person or persons receiving, without such written consent, from any such Indian or other person, any such stone, wood, timber or bark of any kind, either on said reservation or that may have been removed therefrom, knowing the same to have been taken or removed from said reservation, shall be liable as trespassers for five times the value of such stone, wood, timber or bark, to be prosecuted for by the agent of said Onondaga Indians, in the name of the people of this state.

Agent to prosecute offenders. § 2. The agent of the Onondaga nation of Indians, is hereby authorized to prosecute for all violations of this statute, in the name of the people of the state of New York, and the moneys arising therefrom, when collected, shall, after deducting his fees, and all reasonable costs and expenses of collection, be paid to the chiefs of the said nation for the benefit of said nation.

L. 1855, Chap. 233—An act to incorporate the Thomas Asylum for Orphan and Destitute Indian Children, on the Cattaraugus reservation, and to provide for its establishment and maintenance.¹

Title and name of trustees; property. SECTION 1. For the purpose of establishing and maintaining on the Cattaraugus reservation, an asylum for orphan and destitute Indian children, Eber M. Petit, Chauncey T. Carrier, S. G. Ellis, Elisha Brown, and Asher Wright, white men, and Sylvester Lay, Wallace King, Zechariah L. Jameson, Lewis Seneca, and Joshua Pierce, Indians, and their successors, are hereby constituted a body corporate, by the name of the Thomas Asylum for Orphan and Destitute Indian Children, and shall possess the powers and be subject to the provisions of the third title of the eighteenth chapter and first part of the Revised Statutes, so far as the same are applicable, and have not been

¹ See also L. 1875, ch. 162, and L. 1887, ch. 316, post.

repealed; and shall be capable of taking and holding, by gift, grant, or devise, real and personal property, to be applied to the purposes of the corporation, the annual income of which shall not exceed five thousand dollars.

Trustees. § 2. The persons above named shall be the first trustees of the said corporation, and shall supply any vacancies which may occur in their number by their own appointment. Six of their number shall constitute a quorum for the transaction of business.

Real estate. § 3. The said trustees may acquire the right to the occupancy and use of land on the Cattaraugus reservation, for the purposes of the corporation, not exceeding fifty acres, either by an act of appropriation by the government of the Seneca nation of Indians, or by lease or purchase from any individual Indian or Indians; but if such land shall at any time cease to be needed for the purposes of said corporation, it shall revert to said government, in case it was received therefrom, on payment of the fair value for such improvements as may have been made thereon; and if it shall have been obtained by purchase from any Indian or Indians, the trustees may sell it, with the improvements thereon, to any Indian or Indians; the proceeds, in either case, to be devoted to the charitable objects of the corporation.

[Section 4 is omitted as temporary.]

Appropriations. § 5. The said asylum shall be entitled to share in the appropriations hereafter to be made to the incorporated asylums in the state, and for this purpose shall be deemed an incorporated orphan asylum of this state.

Selection of orphans. § 6. The trustees of said asylum shall, on application, select orphan children from each of the several reservations located within this state, and in making such selection, regard shall be had to a just participation in the privileges of this act, by each of said reservations; and, if practicable, reference shall be had to the population residing on each of said reservations in determining such selection.

Subject to visitation of superintendent of public instruction. § 7. The Thomas asylum shall at all times be subject to the visitation and control of the superintendent of public instruction, or such board of commissioners for Indian affairs as may hereafter be constituted and appointed by the legislature; and the trustees of said asylum shall annually report to said superintendent of public instruction, or to said commissioners, the condition of their asylum, including a true account of the receipts and disbursements of all moneys which shall come into their hands for the benefit of such asylum.

L. 1857, Chap. 45—An act to relieve the Seneca nation of Indians from certain taxes on the Allegany and Cattaraugus reservations.

[Sections 1, 2, and 3 are omitted as temporary.]

Tax not to be hereafter assessed. § 4. No tax shall hereafter be assessed or imposed on either of said reservations, or on any part thereof, for any purposes whatever, so long as said reservations remain the property of the Seneca nation; and all acts of the legislature of this state conflicting with the provisions of this section are hereby repealed.

[See L. 1864, ch. 81.]

L. 1857, Chap. 233—An act to provide for the distribution of the annuity due to the Onondaga Indians in western New York.

Appointment, how made. SECTION 1. The governor of this state shall nominate and the senate appoint some proper person to be agent of the Onondaga Indians in

*So in the original.

western New York. Such agent shall hold his office for four years, unless sooner removed, for cause, by the governor.

Duty of agent. § 2. It shall be the duty of such agent annually, on or before the first Monday of June, to take an enumeration or census of all the Onondaga Indians, residing on the Allegany, Cattaraugus, Tuscarora, and Tonawanda reservations, and return said enumeration to the comptroller, who shall, upon receiving the enumeration of all the Onondaga Indians in this state, divide and apportion the annuity moneys due to the Onondaga Indians residing upon the above named reservations, and shall transmit such amount to the agent appointed under this act.

Sureties. § 3. If by any accidental oversight, any Onondaga Indian, entitled to receive a portion of the annuity money, shall have been left out of the enumeration in any year, it shall be the duty of such agent to correct the same the first opportunity, and to report the same to the comptroller.

Agent's bond, etc. § 4. Before entering upon the duties of his office, such agent shall execute with two sufficient sureties, to be approved by the county clerk of the county of his residence, a bond to the people of this state, in the penal sum of two thousand dollars, and conditioned that such agent shall faithfully and honestly execute the duties of his office, and shall annually report to the comptroller, and produce his vouchers for the payment of all moneys committed to his charge under this act; said bond to be filed in the office of the comptroller.

To pay over money. § 5. It shall be the duty of said agent to pay and distribute the annuity money received under this act, as soon as may be, and without delay, and in making such distribution the same shall be paid to heads of families and individuals whenever the same can be done.

Salary of agent. § 6. The said agent for taking the census of the Onondaga Indians, on the Allegany, Cattaraugus, Tuscarora and Tonawanda reservations, and paying the annuities to them, as provided for in this act, annually, shall receive an annual salary, including all expenses, of one hundred and fifty dollars, from the date of his commission, to be paid by the treasurer on the warrant of the comptroller, whenever satisfactory and proper vouchers for the payment of said annuities shall be produced to the comptroller. [*Thus amended by L. 1858, ch. 73.*]

L. 1857, Chap. 659—An act to provide for the preservation of timber and stone on the lands of the Onondaga Indian reservation.

Preservation of timber, etc.; penalty. SECTION 1. The Onondaga tribe of Indians, residing on their reservation, in the county of Onondaga, are authorized to make and establish from time to time, such regulations as they may deem necessary, in order to provide for the preservation of timber and stone on the lands of such reservation; and such regulations, when approved by the county judge of the county of Onondaga, shall be binding in law, and whoever shall offend against the same shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding two hundred and fifty dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment.

Publishing of regulations. § 2. All regulations made or established pursuant to the provisions of this act, shall be published for four weeks successively in one of the newspapers printed in the county of Onondaga.

L. 1858, Chap. 206—An act for the relief of the Onondaga tribe of Indians.

Medicine and medical aid to be supplied. SECTION 1. The board of supervisors of the county of Onondaga are hereby authorized and required to employ annually

hereafter, some suitable and competent physician to attend upon and minister to the necessities of sick and indigent Indians of said tribe of Onondaga Indians or transient Indians of other tribes who may be temporarily residing with them; and procure and furnish to them in addition to professional services, such necessary medicines, proper food and attendance as he may deem fit and proper for their condition. And all bills made by such physician under the provisions of this section, for such medical aid, medicines, food and attendance, when properly verified according to law, shall be audited and allowed by the said board of supervisors of said county, and upon their order to be paid by the county treasurer out of the moneys in his hands specially provided for the purpose in the second section of the act hereby amended. [*Thus amended by L. 1861, ch. 134.*]

Legislature annually appropriate a sum of money. § 2. To carry into effect the provisions of this act, the legislature shall annually appropriate such sum as may be necessary, not exceeding three hundred dollars, to be paid out of the general fund, to the treasurer of the county of Onondaga, on his warrant, to be by him kept as a fund to be applied and paid only as is provided in the first section of this act.

Supervisors may make additional appropriation. § 3. If in any year the board of supervisors of the county of Onondaga shall deem the appropriation provided in the second section of this act inadequate or insufficient to carry out the intention and aim of this act, they may appropriate, in addition thereto, such sum of money as they may think necessary therefor, out of any moneys which may come into the treasury of said county, arising from that portion of the moneys collected as fines for selling liquor to the Indians and for trespasses upon Indian lands, which now by law is paid over to the chiefs of the Onondaga Indians; but all such moneys shall be directly appropriated by the board of supervisors themselves, upon the recommendation of the supervisor of the town of Onondaga and the agent of the Onondaga Indians, to be applied and disbursed in the same manner and by the same person or physician, as is provided in the first section of this act.

L. 1859, Chap. 280—An act to apply the provisions of the seventeenth section of chapter six hundred and twenty-eight, session laws of eighteen hundred and fifty-seven, to Indians in this state.

Certain provisions of law to apply to Indians; compensation. SECTION 1. The provisions of section seventeen, chapter six hundred and twenty-eight, of the session laws of eighteen hundred and fifty-seven, shall apply to all Indians, and to all the Indian reservations in this state; and all Indian officers, empowered either by Indian laws or by the laws of this state to make arrests, shall be arresting officers, under said section, on the reservations to which they belong; and any magistrate, before whom any Indian shall be convicted of intoxication, shall impose the same fine upon said Indian as if he or she were a white person. In all cases the magistrate shall require the arresting officer to testify whether or not the person brought by him was intoxicated when arrested. Indian arresting officers shall receive the compensation by law allowed to constables for similar services, and shall be liable to the same penalty as constables for neglect of duty under the provisions of said section.

[See "Act to suppress intemperance and to regulate the sale of intoxicating liquors," L. 1857, ch. 628, *post.*]

Special marshals. § 2. Henry Silverheels, George Seneca, Jack Logan, Job King and Joshua Turkey of the Cattaraugus reservation, and Daniel Shongo, Levi Halftown, Charles Red Eye and Harrison Halftown of the Allegany reservation, are hereby appointed special marshals for the term of two years, and until others are appointed by said Indians, not exceeding five for each reservation, for the purposes of this act.

L. 1859, Chap. 374—An act granting the peace makers on the Cattaraugus and Allegany reservations exclusive jurisdiction over actions for divorces among the Indians on said reservations, and to hear and determine actions between Indians, involving the title to real estate on said reservations.

Exclusive jurisdiction to grant divorces. SECTION 1. The peace makers of the Allegany and Cattaraugus reservations, in this state, shall have exclusive jurisdiction to grant divorces as between Indians residing on said reservations, with the right of appeal to the council by any party aggrieved.

To hear and determine differences between Indians. § 2. The said peace makers shall also have exclusive jurisdiction to hear and determine all questions and actions between individual Indians residing on said reservations, involving the title to real estate on said reservations, with the right of appeal to council by any party aggrieved.

L. 1860, Chap. 491—An act to relieve the Tonawanda band of Seneca Indians from certain taxes on the Tonawanda reservation, and to prevent intrusions thereon.

[Sections 1, 2 and 3 are omitted as temporary.]

No tax to be hereafter assessed upon lands owned or occupied by Tonawanda Indians. § 4. No tax shall hereafter be assessed or imposed on any part of the said Tonawanda reservation, which shall be owned or occupied by the said Tonawanda band of Indians, for any purpose whatever, so long as the same remains the property of the said Tonawanda band of Indians; and all acts of the legislature of this state, conflicting with the provisions of this section, are hereby repealed.

Warrants for removal of trespassers or intruders may be issued by any justice of the peace. § 5. A warrant to remove any trespassers or intruders, or persons other than Indians, who may settle or reside upon any lands in said reservation, as well those lands located in the counties of Niagara and Erie, as those which are located in the county of Genesee, may be issued as now provided by law, by any justice of the supreme court, residing in any county adjoining said reservation, and by the county judge of the county of Genesee, and either of them; which officers are hereby authorized and empowered to hear complaints of such settlement or residence, trespasses and intrusions, and to receive proof thereof; and it shall be the duty of the district attorney of the county of Genesee, to make such complaints in the manner prescribed in the act of the legislature of this state, entitled "An act respecting intrusions on Indian lands," passed March thirty-first, eighteen hundred and twenty-one; and the sheriff of the county of Genesee is hereby authorized and empowered to execute any warrant issued pursuant to this section.

L. 1861, Chap. 325—An act for the relief of the St. Regis tribe of Indians.

Attorney for St. Regis Indians. SECTION 1. The governor of this state is hereby authorized to appoint an attorney for the St. Regis tribe of Indians, residing in the St. Regis reservation in this state, who shall hold his office for three years, and who shall receive an annual salary of one hundred and fifty dollars, to be paid by the state, and no other compensation of any kind for services rendered under this act.

Duty of attorney. § 2. It shall be the duty of the said attorney to receive from the comptroller of this state, the annuities due from the people of this state to the St. Regis tribe of Indians, and to pay the same over to the heads of families belonging to said tribe, by paying to each their equal share of said annuities, and to take from each the necessary receipt therefor.

Id. § 3. It shall be the duty of said attorney to collect all moneys due or to become due on any of the lands of said St. Regis reservation, which are now leased by said tribe or otherwise, for their benefit, and to pay the same over to the said Indians, in the manner specified for paying their annuities.

Attorney may bring actions, etc. § 4. The attorney is hereby authorized, in the name of the people of the state of New York, to bring any action or actions in the courts of this state for the recovery of any money now due, or to become due to the said Indians, or to any one or more of them, for the rent of said leased lands; also to bring any action or actions for the recovery of the possession of any of the lands in the St. Regis reservation leased for their benefit, the possession of which is withheld from said Indians, after said lease or leases shall have expired; and also to bring any action or actions for any trespass committed by any person or persons on land possessed by any one or more of said Indians, upon security for the payment of the costs of such action or actions being given in either of the two last cases, to said agent and attorney to his satisfaction; and the like damages shall be recovered in such cases as are now provided by law in cases of refusal to deliver possession of real property, and of wilful trespass; and after deducting expenses, such damages shall be paid to the party entitled thereto.

Annual report to comptroller. § 5. It shall be the duty of said attorney to make an annual report to the comptroller of this state on or before the first day of December in each year, of all his proceedings under this act, and the salary herein allowed shall be paid by the treasurer, on the warrant of the comptroller out of any moneys not otherwise appropriated.

[Section 6 repeals L. 1841, ch. 143, L. 1858, ch. 368, and L. 1859, ch. 364; and provides that "said repeal shall not invalidate any of the unexpired leases of lands owned by said St. Regis Indians."]

Official bond. § 7. The said attorney, before entering upon the duties of his office, shall execute a bond to the people of this state in the sum of four thousand dollars, conditioned for the faithful application of all moneys received by him for said St. Regis Indians.

L. 1863, Chap. 90—An act for the protection and improvement of the Tonawanda band of Seneca Indians, residing on the Tonawanda reservation, in this state.

Election of officers. SECTION 1. The male Indians of and belonging to the Tonawanda band of Seneca Indians, and residing upon the Tonawanda reservation in this state, and who are of the age of twenty-one years and upward, are hereby authorized and empowered to choose and elect the following officers: Three peace makers, one clerk, one treasurer and one marshal. The said officers shall all be chosen and elected from Indians who are members of said Tonawanda band, and the said peace makers shall be elected from the chiefs of said band, residing on said reservation. The officers hereinbefore named shall be chosen by ballot, or by ayes and noes, upon nomination of an elector. The first election of said officers shall be held at one of the council houses of said band, upon said reservation, on the first Tuesday of June, one thousand eight hundred and sixty-three; and there shall be held an annual election for the election of said officers, on the first Tuesday of June in each and every year thereafter. A plurality of all the votes given at any such election shall be sufficient to elect any candidate for any of the said offices. At the first election held under this act, the oldest peace maker present, from the peace-makers then holding office in said band, shall be the presiding officer over such election, and the clerk then holding office in said band shall keep the minutes of the proceedings and result of the election, but at all subsequent elections, the oldest peace maker present, and clerk last chosen, shall be the president and clerk to preside over and keep the minutes of the proceedings and result of the elections. In case of the absence of the peace makers and clerk, those present at the meeting shall choose a president and clerk for such meeting.

Voters. § 2. No Indian shall be entitled to vote at any such election of officers, unless he shall be twenty-one years of age or over, nor unless he shall be a member of the Tonawanda band of the Seneca nation of Indians, and a resident upon the Tonawanda reservation in this state, at the time he shall offer his vote; and the presiding officer at any such election, shall have power to determine upon the right to vote of any person offering to vote at any such election, and may examine, on oath, the person so offering to vote, or any other Indian or Indians, which oath the presiding officer is authorized to administer.

Term of office, and supplying vacancies. § 3. The officers elected by virtue of this act, shall hold their respective offices for one year, commencing on the first Tuesday of July following their election. If any vacancy shall happen, any chief of said band may, within eight days thereafter, call a special meeting of the chiefs of said band, residing on said reservation, to be held at one of their council houses, by leaving a notice of such meeting with said chiefs, or at their several places of residence on said reservation, five days before the time at which such meeting shall be convened, specifying the time and place of such meeting. A majority of the chiefs present shall choose a clerk for the meeting, and elect officers to supply such vacancies.

Register of elections. § 4. There shall be a book provided by said band, to be called the register of elections, and a certificate of the election of any officer under this act shall be entered in such register, and be signed by the president and clerk of said meeting, and shall be evidence of such election.

Treasurer to give bond. § 5. The treasurer shall, within thirty days after his election, give security to the said Tonawanda band of Seneca Indians, in such form and amount as the peace-makers shall approve, for the faithful performance of the duties of his office. For any breach of the conditions of the said security, an action may be maintained in any court of this state, in the name and for the benefit of the said Tonawanda band of Seneca Indians, in the manner provided by the laws of New York, for the breach of official bonds given by any county treasurer. The treasurer, after giving security as aforesaid, shall receive all moneys belonging to said band, which shall be deposited with him pursuant to any resolution of the chiefs of said band, duly adopted in council and recorded. He shall not pay out any of said moneys, except upon the warrant of the presiding officer and clerk of a council of the chiefs, at which an act of appropriation of such money shall have been duly made, by a majority of votes, and recorded. The treasurer shall receive such compensation as the chiefs in council assembled shall determine.

Clerk to keep books, papers, etc. § 6. The clerk shall have the custody of all the books, papers and records belonging to the said band; he shall be furnished by the chiefs with a book of records at the expense of the band, in which he shall enter all the proceedings and elections of any annual or special meetings of said Indians, and all orders, rules, regulations and certificates, made or granted by the chiefs in council, and for that purpose shall attend the meetings of the said Indians, and the councils of the chiefs, and shall be their secretary; all orders of the chiefs for the payment of any money, shall be certified by the presiding officer and clerk to have been duly made, before the same shall be paid by the treasurer, and shall be retained by the treasurer as his vouchers. Every order, certificate or other matter, certified by the clerk to be true extracts from his minutes, shall be competent evidence thereof; the clerk shall receive such compensation for his services as shall be allowed by the chiefs in council, not exceeding fifty dollars in any one year.

Authority of peace makers. § 7. The peace makers of said reservation shall have authority to hear and determine all matters, disputes and controversies between any Indians residing upon said reservation, whether arising upon contracts or for wrongs, and particularly for any encroachments or trespass on any land cultivated or occupied by any one of them, and which shall have been entered and described in the clerk's book of records; but they shall not take cog-

nizance of any claim founded upon any debt or demand originally contracted with a white man. And said peace makers shall have power to make all needful rules and by-laws for notifying and bringing the parties to such matters, disputes and controversies as may arise under the provisions of this section before them, and for the regulation of all proceedings thereon, and for the hearing and determination thereof, and for the enforcing obedience to such rules and by-laws. They shall publicly hear the proofs and allegations of the parties to such matter, dispute or controversy, and shall publicly declare and make known their determination therein within four days after such matter, dispute or controversy shall be finally submitted to them by the parties. They shall have power to enforce obedience to such rules and by-laws, and shall have power to issue and enforce the observance of orders or notices for the appearance and attendance of witnesses before them to testify and give evidence in any such matter, dispute or controversy so pending before them, and may compel the appearance before them of such witness by attachment or by fine, for not appearing in the same manner as is now provided by law for compelling the attendance of witnesses in courts of justices of the peace in this state. They shall have power to, and may administer oaths to witnesses produced by the parties on any such hearing, and to cause them to be examined on oath, and may examine any party to any such matter, dispute or controversy so pending before them, on oath as a witness, when such examination shall be required by an adverse party. The chiefs of said Tonawanda band of Indians shall furnish for the use of the said peace makers, a book of record of their proceedings and determinations, in which said peace makers shall cause an entry to be made of all matters heard and determined by them under the provisions of this act. The entry made in every such case, shall contain the names of the parties to such matter, a brief statement of the matter brought before them for a hearing and determination, the finding and determination thereon of the peace makers, before whom it was heard, the amount of their award, the amount of costs allowed, the party in whose favor it is found, and also against whom it is found, and the time within which their decision is to be complied with, and the date of such determination. The clerk of said band shall act as the clerk of said peace makers and shall attend them on all such hearings, and shall keep said book of records, and make all the entries herein required to be made in said records. In case any party shall fail to comply with, or fulfil the direction or finding of said peace makers in any matter heard and determined by them under the provisions of this section within the time fixed by such determination, the party in whose favor such determination may be, shall be entitled to recover the amount awarded to him by such determination, with costs, in an action in justice's court before any justice of the peace of the county of Genesee, in which action, a copy of the record of such determination, certified by said clerk, shall be conclusive evidence of the right of recovery, and of the amount of such recovery, and executions shall be awarded to enforce the collection of the judgment obtained thereon in the same manner and with the like effect as against white persons, and the property and person of the defendant in such action shall be liable to seizure and sale or imprisonment, as in like cases against white persons. But the peace makers shall in no case award more than one hundred dollars, exclusive of costs, in favor of any party, in any one complaint or suit. Any two peace makers shall be competent to perform any duties and exercise any powers herein assigned to the peace makers of said reservation. The oldest peace maker present, at any business meeting of the peace makers, shall be the presiding officer of such meeting.

When peace maker not to act. § 8. No peace maker shall act in any case in which he is related by blood to either of the parties within the fourth degree by the common law, or have any interest in the controversy, and when such relationship or interest in any two peace makers is established to the satisfaction of the other, he shall associate with him any two chiefs residing on the reservation, not related to the parties as hereinbefore mentioned, and not having any interest

in the controversy, for the hearing and determination of the suit, and such peace makers and the chiefs so appointed, or the majority of them, shall have all the powers and authority herein conferred upon the peace makers in relation to such suits.

Appeal from peace maker. § 9. Any party dissatisfied with the determination of any tribunal so constituted, or of the peace makers in any suit, may appeal therefrom to a jury of six chiefs, to be selected as follows: Upon giving security to be approved by the peace makers to pay the amount that shall be awarded by such jury, the tribunal whose decision is appealed from, shall direct the marshal to summon twelve chiefs, to be designated by such tribunal, to appear at a time and place to be specified, not more than ten days thereafter, to determine such appeal; on the appearance of the chiefs so summoned, six of their number shall be drawn by lot to hear such appeal; if it be established to the satisfaction of the tribunal which summoned the said chiefs, that any of them are related to either of the parties as hereinbefore named, or are interested in the controversy, they shall be set aside and other chiefs shall be drawn instead of them. The jury thus constituted shall hear the appeal, examine the witnesses and parties on oath, if required in the same cases and in like manner and upon the like evidence as in the case of a determination by the peace makers. The chiefs hearing such appeal, shall each be entitled to receive twenty-five cents for their services, to be paid in the first instance by the party appealing; in their final determination they shall direct which party shall pay the costs and expenses of the suit and of the appeal.

Pay of peace makers by suitors. § 10. The peace makers shall not receive any fees for their services to their own use, but all such fees shall be paid to the treasurer of the said band for its use; and in every controversy before them, the costs shall be paid by the party against whom the determination shall be made, which costs shall consist of the fees of the marshal as herein provided and fifty cents each for the attendance of the peace makers at the hearing of the parties, and if the same shall be adjourned, twenty-five cents each for each adjournment; the costs allowed shall be ascertained and specified by them in their determination.

Salary. § 11. There shall be allowed to each of the peace makers by the chiefs in council, an annual compensation, not exceeding fifty dollars in any one year, to be paid semi-annually by the treasurer.

Duty of marshal. § 12. The marshal shall execute all orders, summons and process issued or given to him by the peace makers, or by any tribunal created according to the provisions of this act, and shall be entitled to receive for his services the same fees as are allowed by law to constables in courts held by justices of the peace.

When Indians may sue in courts of state. § 13. For any demand or right of action which any Indian of said band may have against any other Indian, and which, according to the provisions of this act, exceeds the amount which may be awarded by the peace makers, actions may be maintained and prosecuted in the courts of this state, in the same manner and with the like effect as between white citizens.

Names of chiefs to be recorded. § 14. The names of the chiefs of said band shall be entered by the clerk in the book of records. [*Thus amended by L. 1884, ch. 316.*]

[Section 15 repealed by L. 1886, ch. 593.]

Certain lands held in common. § 16. The lands within the said reservation, not already cultivated and improved or inclosed by fences by individual Indians, shall be deemed to be held in common by the said Tonawanda band of Seneca Indians, and they shall be subject to the control of the chiefs of said band. No land within the said reservation not already cultivated and improved or under fence, shall hereafter be appropriated by any Indian to his own use, without the consent of the chiefs in council; whose duty however it shall be on application, to allot and set apart for any Indian or any Indian family, so much wild land as the chief shall deem reasonable and an equitable proportion in reference to the whole number not possessing lands. The description of such lands shall be submitted by the respective claimants to the chiefs in council assembled, and shall be approved by the council before they shall be recorded.

Certain lands to be described and recorded. § 17. Lands on the said reservation which are appropriated by any Indians or family to their own use, and cultivated or improved by them, shall within two years after this act takes effect, be described by the person or persons claiming the same, with convenient certainty, and be entered in the book of records kept by the clerk of the said Indians, and if not so entered the claimant thereof shall not be entitled to maintain any suit under the provisions of this act, for encroaching or trespassing thereon.

Removal of trees, etc., prohibited; penalty. § 18. It shall be unlawful for any Indian, being a member of said Tonawanda band of Seneca Indians, to remove or cause to be removed, or to aid or assist in removing from said reservation, any wood or trees or timber, except as in the next section provided. And it shall be unlawful for any person not a member of said Tonawanda band of Seneca Indians, to remove, or aid or assist in removing from said reservation, any wood or trees or timber, or to cut any wood or trees or timber growing or being on said reservation, with intent to convert the same to his own use, or to remove or cause the same to be removed from said reservation. Any person violating any of the provisions of this section, or who shall do or commit any of the acts in this section prohibited, or declared to be unlawful, shall, upon conviction thereof, be adjudged guilty of a misdemeanor, and punished by a fine of not less than twenty-five nor more than fifty dollars, and for any subsequent violation of this section by any person after such conviction, such offender in addition to such fine may be punished by imprisonment in the county jail for a period of not more than thirty days. [*Thus amended by L. 1873, ch. 394.*]

Indians may manufacture shingles, etc.; permit to be obtained. § 19. Any Indian residing on said reservation, and being a member of said band, may, without the aid or assistance of any person not a member of said band, manufacture shingles or staves, from any timber or from any trees growing or being upon any wild land therein, not allotted to or entered by any other Indian, or being or growing upon any land allotted or entered by him, and may sell and dispose of the same for his own benefit, and may cut into saw-logs and draw away to be sawed into lumber and boards to be actually and in good faith used by him on said reservation, and in no case to be sold or disposed of by him. But no person not a member of said band shall, under the pretense of being hired by any Indian, or on any other pretense, be employed in removing any timber, or cutting down any trees for that purpose. But before any Indian shall cut or remove any wood, trees or timber from any wild land not allotted to him, he shall obtain a permit therefor from a council of chiefs, duly assembled, which shall be signed by the presiding officer and clerk of such council. [*Thus amended by L. 1873, ch. 394.*]

When timber or trees not to be sold. § 20. No timber being on any part of said reservation, no trees growing thereon, nor any manufacture thereof shall be sold or disposed of by any individual Indian or Indians, except as hereinbefore provided; and every such sale or disposition shall be absolutely void. And any Indian or Indians who shall sell or dispose of any timber being on any part of

said reservation, any trees growing thereon, or any manufacture thereof, except as hereinbefore provided, shall be subject to a penalty of twice the amount of the value of such timber, trees, or article manufactured from them, which penalty may be sued for and recovered from said Indian or Indians, in any court of this state, in the name of the people of the state of New York, and for the benefit of the Tonawanda band of Seneca Indians, and collection of any judgment or judgments so recovered for such penalties shall be enforced in the same manner that the collection of judgments for penalties are enforced against white persons under the existing laws of the state.

When double value may be recovered. § 21. The proper action for the benefit of the Tonawanda band of Seneca Indians may be prosecuted and maintained by the attorney for the said Indians for any timber or trees, or the manufacture thereof, sold, taken, or carried from the said reservation, in any other case than as herein provided and allowed, and shall recover in such action double the value of the timber, trees, or article manufactured from them, so sold, taken, or carried from the said reservation.

Attorney for the Indians; suits to be in name of the people of this state; district-attorney of Genesee county to contract for sale of gypsum; contractors to give security; money received by district-attorney, how to be disposed of; surplus money to be paid to agent. § 22. The district attorney for the county of Genesee shall be the attorney for the Tonawanda band of Seneca Indians; he shall receive an annual salary of three hundred dollars, to be paid semi-annually on the first day of January and July in each and every year, by the treasurer, on the warrant of the comptroller; he shall, from time to time, advise the said Indians respecting controversies between themselves, and between them or any of them and any other person; he shall prosecute and maintain all such actions, suits and proceedings for them or any of them as he may find necessary and proper, and it shall be his duty, on a written complaint of a majority of the chiefs of said band, when any trespass has been committed on the lands of said reservation, or any timber, wood or logs have been cut or carried away, or converted by any person, not Indian, to his own use, immediately to commence the proper suits for the recovery of such property, or of damages for any such injury; he shall, at all times, when requested by them or by any chief, advise them in relation to their affairs. All suits commenced and prosecuted under the provisions of this act, shall be in the name of the people of the state of New York, and for the benefit of said Tonawanda band of Seneca Indians, and in case it shall be necessary to execute any bonds for the prosecution or maintenance of any suit or proceeding in behalf of the said Indians or any of them, the said attorney may execute the same in the name and behalf of the said Tonawanda band of Seneca Indians, who shall be bound thereby as any citizen may be bound by his lawful agent or attorney in fact; and all sums recovered in any action brought by the said attorney, after deducting such costs and expenses as shall be certified to by the judge before whom the case was tried and judgment was rendered, shall be paid over to the treasurer of the said Tonawanda band of Seneca Indians, if there be one, and if there be none, then to such person as shall be appointed to receive the same by a majority of the chiefs of said band in council assembled, such appointment to be certified to by the presiding officer and clerk of said council. In every suit or proceeding authorized by this act, any individual Indian of said band may, if otherwise competent, be received and examined as a witness on behalf of the said Tonawanda band of Seneca Indians, notwithstanding his being a member of said band. The district-attorney of the county of Genesee is hereby authorized, for the benefit of said Tonawanda band of Seneca Indians, to contract with any party or parties for the sale of any gypsum or plaster stone upon said reservation, on such terms as he may deem just, but for a sum not less than one dollar a cord in the quarry, such contract or contracts to be in writing, and to be performed within three years from the making thereof. The party or parties purchasing the same shall, at the time of making such contract, make and execute a bond with sufficient sureties, to be approved by said district-attorney, for the faithful execution of said contract and payment of the purchase price of

said gypsum or plaster stone; and upon the making of said contract and execution of said bond, the party or parties purchasing said gypsum or plaster stone, may lawfully enter upon said reservation, at the place or places designated in their contract therefor, whether the same be upon the common lands of said band or upon the individual improvements of members of said band, and quarry and remove said gypsum or plaster stone according to their said contracts, doing no unnecessary damage or injury. Out of the moneys received from the sale of said gypsum or plaster stone, said district-attorney shall pay to the party or parties, if any, injured thereby, such sum as may be just for any damage or injury to the individual improvements or property of any member or members of said band, necessarily resulting from quarrying and removing said gypsum or plaster stone, and in case of any dispute as to the amount of such damages, the same shall be fixed and assessed by three commissioners to be appointed by the county court of Genesee county, on the application of the party aggrieved, but three days' notice of such application shall be given in writing to said district-attorney. The surplus moneys remaining in the hands of said district-attorney, arising from the sale of said gypsum or plaster stone, after the payment of such damages, shall be paid over by said district-attorney, for the benefit of said band, to the Indian agent appointed by the United States government for the state of New York. Said moneys so received by said Indian agent from the said district attorney shall be added to the annuity granted by the United States to the said band, and distributed and paid over to said band at the same time with said annuity; and the said agent shall receive for his services in receiving, distributing and paying over the same, five per cent of the amount so received by him from said district-attorney. [*Thus amended by L. 1867, ch. 839, and L. 1873, ch. 394.*]

Laying out of roads. § 23. The chiefs of said band of Indians, in council assembled, may determine on the laying out of roads and highways, and working the same; and may make by-laws to regulate such work, and also for regulating, protecting and improving their common lands, and for regulating fences, and preventing trespasses by cattle or otherwise, and may provide a penalty, not exceeding five dollars, for violating or disobeying any such regulation or by-law, which penalty may be enforced and collected by action in the name of said band in any justice's court in the county of Genesee, for the benefit of said band, and any chief or other officer of said band may appear and answer to and conduct the trial of any such action for said band.

Right to cultivate lands regulated. § 24. No person or persons other than Indians shall have the right to occupy or cultivate any lands within said reservation on shares, or under any lease thereof or other contract, except it shall be pursuant to and in accordance with the following regulations and restriction: Any Indian residing on said Tonawanda reservation, and a member of said Tonawanda band of Seneca Indians, owning or possessed of improved lands thereon, may lease said lands on shares to any white man, but no lease of such land shall be valid, or give any right to such white person or persons to any portion of the crops or produce raised upon such lands, unless the contract for the leasing of such lands be in writing and approved in writing by the attorney of the said Tonawanda band of Seneca Indians, duly indorsed on said contract, nor unless such Indian shall have first obtained a permit therefor from a council and chiefs duly assembled, which shall be signed by the presiding officer and clerk of such council; and no permit shall be granted by such council unless the Indian applying therefor, shall show, to the satisfaction of said council, how much land he or she proposes to lease, that it is within the bounds of his or her occupied improvements, that the same is inclosed by a lawful fence, that he or she has cultivated, or is in the act of cultivating as much of his or her improvement as their ability will allow, and that the permit asked for, only covers the leasing of such part of his or her improvements as he or she has not the ability or means to cultivate. Any lease or contract, made in contravention or violation of the provisions of this section, shall be absolutely void, and the amount of all rents, or crops, or produce raised there-

under shall be forfeited, and shall belong to said band. And the attorney for said Indians shall be authorized to prosecute for the value of all rent or crops raised upon any of the lands of said reservation under any such void lease or contract for the benefit of the Tonawanda band of Seneca Indians, and to recover the amount thereof from any person or persons violating the provisions of this section.

When other Indians may reside on lands of reservation. § 25. It shall be unlawful for any Indians, other than members of the Tonawanda band of Seneca Indians, to settle or reside upon the lands within the said Tonawanda Indian reservation, unless such Indian or Indians shall first obtain a permit from the chiefs of the said Tonawanda band, which permit shall only be granted by said chiefs in council assembled, by a majority vote, and shall be in writing, signed by the presiding officer and the clerk of such council, by direction of such council. And said chiefs in council assembled shall have power to limit the time and regulate the terms upon which any Indians, not members of said Tonawanda band, may settle or reside upon said lands, and every permit granted by said chiefs, shall specify the length of time and the terms upon which any such Indians may reside upon any portion of such lands, and shall describe the boundaries and quantity of such lands so permitted to be occupied. And all leases, contracts and agreements made by any of the members of the said Tonawanda band, whereby any of the Indians, not members of said Tonawanda band, shall be permitted to reside upon such lands, shall be absolutely void; and if any Indian or Indians shall settle or reside on any such lands contrary to this act, it shall be the duty of the county judge of the county within which such lands shall be situated, on complaint made to him and on due proof of the fact of such settlement and residence in violation of this section, to issue a summons directed to the person or persons complained of, reciting the facts alleged in said complaint, and requiring the person or persons to whom the same is directed, to appear before said judge at a time and place to be therein named, to answer the said complaint, and it shall be the duty of such judge to attend at the time and place stated in said summons, and on due proof being made to him of the personal service of said summons on such person or persons, he shall take proof of the facts alleged in said complaint, and thereupon determine whether such person or persons are intruders on lands of said reservation in violation of this section; and if he shall determine that such person or persons are intruders thereon, it shall be his duty to issue his warrant under his hand and seal, directed to the sheriff of such county, commanding him within ten days of the receipt thereof, to remove such person or persons so settling or residing with his, her or their families from such lands, and it shall be the duty of such sheriff accordingly, within the time aforesaid, to remove such person or persons, and for that purpose he shall have and possess the same powers as in the execution of criminal process. And such sheriff, for executing the said warrant, shall be allowed such compensation as the comptroller of this state shall certify to be reasonable, which compensation shall be paid by the treasurer on the warrant of the comptroller, out of any moneys in the treasury not otherwise appropriated.

Punishment of trespassers. § 26. That if any Indian or Indians, after being so removed as aforesaid, shall return to settle or reside upon the lands of the said Tonawanda reservation, without obtaining the permit from the chiefs of said Tonawanda band of Seneca Indians, as provided in the last foregoing section, such person or persons so offending, and being thereof convicted before the county judge of the county where the lands so intruded upon by such person or persons are situated, upon the confession of the party offending, or proof of any witness or witnesses, on oath, then the said judge before whom such conviction shall be had shall direct and send his warrant to the sheriff of the said county, commanding him to arrest such person or persons forthwith, and to commit him or them to the common jail of the said county, there to remain for the space of thirty days; and such sheriff shall accordingly arrest and commit such person or persons to the said common jail for the term of time aforesaid, there to remain without bail, and

without being entitled to the liberties of the limits of the said jail. And such judge shall cause such conviction to be drawn up and filed in the office of the clerk of the county; and no such conviction or adjudication shall be liable to be removed by certiorari, appeal or otherwise, but shall be deemed and taken to be final.

Duties of district-attorneys relative to trespassers. § 27. That it shall be the duty of the respective district-attorneys of the several counties of this state in which any of the lands of the said Tonawanda reservation shall be situated, to make complaint of all intrusions upon the lands of the said reservation, in their respective counties, forbidden by this act, on the application, in writing, of a majority of the chiefs of the said Tonawanda band of Seneca Indians, and to cause such intruders to be removed in the manner hereinbefore specified and prescribed, and in case of their return, to complain to the county judge of the county, that the provisions of sections twenty-five and twenty-six may be carried into effect.

Removal of trespassers from lands. § 28. That whenever any Indian or Indians of the said Tonawanda band shall occupy any of the common lands of said reservation in violation of section sixteen of this act, it shall be the duty of the chiefs of said band, or a majority of them, to cause a notice, in writing, signed by the presiding officer and clerk of said band, and describing the lands so occupied in violation of said section, to be served on the person or persons so violating said sections, requiring such person or persons to remove from the said lands within ten days after the personal service of such notice upon such person or persons, or in default thereof to show cause before the chiefs of said band, in council assembled, at a time and place to be therein stated, why such person or persons should not be removed from such lands. And, in case such person or persons shall not remove from said lands, as required by said notice, or shall not show sufficient cause to said chiefs in council assembled, in pursuance of such notice, why such person or persons should not be removed from said lands, the said chiefs shall have power, and it shall be their duty, on due proof being made to them of the personal service of such notice upon the person or persons to whom the same was directed, and on proof that such lands are common lands of said band not held or occupied by such person or persons under the permit required to be granted by said chiefs, to issue an order, directed to the marshal of said reservation, commanding said marshal forthwith to remove such person or persons from said lands so occupied in violation of said section, which order shall be signed by the presiding officer and the clerk of said council. And it shall be lawful for and the duty of said marshal to remove such person or persons from said lands, and to call to his aid sufficient force to cause such removal, and to keep such person or persons removed therefrom. And the said marshal and his aids shall not be liable to any civil or criminal prosecution for any necessary act, done by him or them while executing said order.

In cases of encroachment. § 29. Whenever complaint shall be made to the peace makers by any Indians lawfully residing upon any cultivated lands on said reservation, which shall have been entered and described in the clerk's book of records, that an encroachment is being made by other Indians upon his, or her, said lands, it shall be the duty of the peace makers to issue a notice to the person or persons complained of, reciting the complaint, and requiring said person or persons to appear before them, at a time and place to be in said notice named, and show cause why the complainant should not be put into full and peaceable possession of the lands alleged to be encroached upon, which notice shall be immediately served upon such person or persons. The said peace makers shall meet at the time and place mentioned in said notice, and, on proof of the personal service of said notice on the person or persons complained of, they shall hear the proofs of the parties, and shall forthwith determine whether any encroachment has been made as alleged, and the extent thereof, and in case they shall find that an encroachment has been made, they shall issue an order, directed to the marshal of said reservation, commanding him forthwith to remove

such encroachments, and put the complainant in full possession of the lands encroached upon. And the said marshal, on receiving such order, shall forthwith remove such encroachments, and put the complainant in full possession of his said lands, and keep him in possession as against the person or persons complained of, and all other persons aiding or abetting them. And the said marshal is hereby empowered to use all necessary force for the execution of said order, and he and his aids shall not be liable to any civil or criminal prosecution for any necessary act done by him or them while executing said order.

Payment of annuity. § 30. The proportionate share of said band to the annuity of five hundred dollars, agreed to be paid by the state of New York, under a treaty dated twelfth September, eighteen hundred and fifteen, shall hereafter be paid by the treasurer of this state, under the warrant of the comptroller to the treasurer of the Tonawanda band of Seneca Indians. Their proportionate share shall be determined by the ratio that their numbers bear to the whole number of Senecas residing in other portions of the state having an interest in the annuity.

Term of certain officers. § 31. The several officers of the said Tonawanda band of Seneca Indians, elected and holding office under and in pursuance of the provisions of chapter two hundred and eighty-three, of the Laws of eighteen hundred and sixty-one, entitled "An act for the protection and improvement of the Tonawanda band of Seneca Indians, residing on the Tonawanda reservation in this state," shall be the officers of said band under this act, and continue to hold and to discharge the respective duties of their several offices, under the provisions of this act, to and until the first Tuesday of July, eighteen hundred and sixty-three, and for that purpose, shall have all the powers conferred by this act upon them respectively.

[Section 32 repeals L. 1861, ch. 283.]

L. 1864, Chap. 81 — An act in relation to unpaid taxes on the Allegany and Cattaraugus Indian reservations.

Duty of comptroller. SECTION 1. The comptroller is hereby empowered and required to sell, at such time or times and in such manner as other lands are now required by law to be sold for the non-payment of taxes, the lands included in the Allegany and Cattaraugus Indian reservations, as the same have been returned to him by the counties of Cattaraugus and Erie respectively, for the payment of the taxes assessed upon such lands, pursuant to chapter one hundred and sixty-six of the laws of eighteen hundred and forty-one, in the years eighteen hundred and forty-one, eighteen hundred and forty-two, and eighteen hundred and forty-three, provided that such sale shall not affect the title, interest, or right of occupancy of the Seneca nation of Indians of any part of the lands so sold.

Taxes to be credited. § 2. The comptroller is required to credit to the counties of Cattaraugus and Erie respectively the amount of the taxes assessed upon such lands in each of said counties, pursuant to said chapter one hundred and sixty-six, of the Laws of eighteen hundred and forty-one, with the interest accumulated thereon and the expenses of the former sale of said lands; and no part of such taxes shall again be charged to either of said counties or to any town therein.

Comptroller to certify; comptroller to credit Erie and Cattaraugus counties with amount of certain taxes. § 3. The comptroller is hereby required to certify to the boards of supervisors of the counties of Cattaraugus and Erie respectively a transcript of the lands included in the Cattaraugus and Allegany Indian reservations, heretofore returned to him by said counties respectively for the non-payment of highway taxes assessed, pursuant to chapter two hundred and fifty-four of the laws of eighteen hundred and forty, or for the non-payment of the taxes assessed upon said lands for town and county purposes, with the amounts of such taxes and

the accumulated interest thereon as so returned to him. Upon so certifying the same, the comptroller shall immediately credit said counties respectively with the amount of such taxes returned by them respectively, and no part of such taxes or interest shall again be charged to either of said counties or any town therein, except for the omission or neglect of the officers of such counties or towns to levy and return such taxes as hereinafter provided.

Duty of the boards of supervisors. § 4. The boards of supervisors of said counties respectively, at their first annual meeting, shall cause said lands so certified to them by the comptroller to be entered, with their particular descriptions, in that part of the assessment rolls of the several towns in which such lands or any part thereof are situated, in which the lands of non-residents of the town are put down, and shall assess upon each parcel of such lands the amount of taxes heretofore assessed upon the same under the act, and for the purposes specified in section three of this act, and the accumulated interest thereon, as the same shall be certified to them respectively by the comptroller, and shall issue their warrant for the collection of the taxes so assessed by them in the same manner as other taxes are collected, and requiring the same, when collected, to be paid to the treasurer of the county in which the same shall be collected, to be by him paid into the state treasury.

Duty of county treasurer; in what case lands to be sold by comptroller. § 5. If said taxes shall be paid or collected, the same shall be paid by the treasurer of the county in which the same shall be collected into the state treasury; but in case of their non-payment, or a failure to collect the same by the collector, the lands upon which the same shall be assessed shall be returned to the comptroller, and by him sold in the same manner as other lands are by law returned and sold for the non-payment of taxes. But no sale of said lands or any part thereof shall in any manner affect the title, interest, or right of occupancy of the Seneca nation of Indians of, in, or to said lands so sold.

L. 1865, Chap. 124—An act declaring the amended constitution of the Seneca nation of Indians, adopted on the eighteenth day of March, A. D., eighteen hundred and sixty-two, the legitimate government of said Seneca nation of Indians, and confirming the official acts of Henry Silverheels as president, and of certain other persons as councillors of said nation.

Constitution adopted. SECTION 1. The amended constitution adopted by the people of the Seneca nation of Indians, residing on the Cattaraugus and Allegany reservations, in this state, in convention assembled, on the eighteenth day of March, A. D., eighteen hundred and sixty-two, is hereby declared to be the legitimate government of said nation.

Official acts confirmed. § 2. The official act of Henry Silverheels, as president of said nation of Indians, in appointing John Luke, Peter Jemison, Harrison Halftown and Lewis Seneca as councillors of said nation, is hereby ratified and confirmed; and said four last named persons, together with Jabez Stevenson, are hereby declared to be the councillors of said nation, under said constitution; and their official acts as such councillors, in council assembled, and of said Henry Silverheels as president of said nation, are hereby fully ratified and confirmed; provided that nothing in this act contained shall be construed to ratify or confirm any lease or leases of land made by either of the above named persons, either as councillors or as president of said nation, or by both.

Appointment of clerk confirmed. § 3. The appointment of Nathaniel T. Strong as the clerk of said nation, by the president thereof, is hereby ratified and confirmed; and said Strong, as such clerk, is hereby declared to be entitled to the possession of the records of said nation.

L. 1869, Chap. 651—An act to provide for the erection of school buildings, and the maintenance of a manual labor school, upon the Tonawanda reservation.

[Repealed by L. 1887, ch. 255.]

L. 1870, Chap. 90—An act in relation to the manual labor school upon the Tonawanda reservation.

[Repealed by L. 1887, ch. 255.]

L. 1887, Chap. 255—An act in relation to the manual labor school upon the Tonawanda reservation and to repeal the act under which the same was created.

Repeal of former statutes. SECTION 1. Chapter six hundred and fifty-one of the laws of eighteen hundred and sixty-nine, being an act entitled "An act to provide for the erection of school buildings and the maintenance of a manual labor school upon the Tonawanda reservation," and chapter ninety of the laws of eighteen hundred and seventy, being an act entitled "An act in relation to the manual labor school upon the Tonawanda reservation," and the several acts amendatory thereof, are each hereby repealed, and the corporation therein mentioned and created is hereby dissolved, and the office of trustee, therein and thereby created, is abolished.

Superintendent of public instruction to sell personal property. § 2. Within ninety days after the passage of this act the superintendent of public instruction of this state, or a suitable person to be designated by him in writing, is hereby authorized to sell the personal effects, school furniture, goods and chattels belonging to said school, or owned by and in the possession of the corporation created by and mentioned in said acts, or either of them, which sale shall be at public or private sale, as said superintendent may deem most advantageous, and the proceeds of such sale over and above the reasonable and proper expense of said sale, as certified to by said superintendent, shall immediately be paid into the treasury of this state, to be applied to the general fund; provided, however, that no such sale shall be held until the consent of the Tonawanda band of Indians be obtained, which shall be evidenced by a resolution duly adopted by the council of said band, together with the approval of the district-attorney of Genesee county indorsed thereon.

Real property to revert to Tonawanda band. § 3. Upon such consent, approval and sale, all the real estate belonging to said corporation, or acquired by the trustees thereof, under and in pursuance of said acts, or either of them, together with the buildings and appurtenances thereunto belonging, shall immediately revert to the Tonawanda band of Indians, and all the estate, right, title and interest of the people of the state of New York of, in and to such real estate, buildings and appurtenances, shall be released to said band of Indians.

L. 1871, Chap. 703—An act further to amend the act for the protection and improvement of the Seneca nation of Indians, residing on the Cattaraugus and Allegany reservations, in this state.

Lands of Indian families, how entered of record; maintenance of suits for trespass. SECTION 1. Lands in the said reservation, which, on the fifteenth day of November, eighteen hundred and forty-seven, were appropriated by any Indian or family to

their own use, and cultivated and improved by them, or which, in conformity to the law and usages of the Seneca nation, are or shall be so appropriated, cultivated and improved by the Indian heirs of such Indian or family, may at any time hereafter be described by such Indian, family or heirs with convenient certainty, and entered in the book of record kept by the clerk of the nation, as provided by section eighteen of chapter three hundred and sixty-five of the session laws of eighteen hundred and forty-seven, and until so entered the claimant or claimants thereof shall not be entitled to maintain any suit for encroaching or trespassing thereon.

Running at large of swine, how regulated; liability of owners for trespass. § 2. Swine shall not be permitted to run at large upon either of the said reservations, or any part thereof, unless a majority of the electors assembled in annual meeting for the election of officers of the nation shall authorize and regulate such running at large. The owner of any swine or other domestic animal which shall trespass upon the duly appropriated and described land of another, shall be liable for such trespass to such other in damages.

Detail of policemen at agricultural fair; expenses, how defrayed. § 3. The board of commissioners of the Niagara Frontier police district may, upon the written request of five or more of the counsellors, detail two or more policemen of the said district to attend and preserve peace and good order at the annual fair of the Iroquois Agricultural Society, on the Cattaraugus reservation. The reasonable expense, and maintenance of the policemen so attending shall be defrayed by the nation.

Concurrent resolutions of the senate and assembly.

Concurrent resolutions relative to a portion of the Allegany reservation occupied by the Seneca nation of Indians, becoming populated by white people and asking for a sale of the whole or a part of said reservation.

WHEREAS, A portion of the Allegany reservation occupied by the Seneca nation of Indians has become populated by the white people; and

WHEREAS, They have been induced to make settlements thereon, especially in the town of Salamanca, on account of the natural business location of the place and a ratification by the legislature of the state of New York, of leases made by them with the Seneca nation of Indians; and

WHEREAS, The sale of this reservation was recommended by the Indian agent in eighteen hundred and sixty-eight; and

WHEREAS, It has become a matter of importance to the white settlers who have made improvements and invested their means in business pursuits thereon; therefore

Resolved (if the senate concur), That the senators from this state in congress be instructed and the representatives be requested to procure the passage of some act or the formation of a treaty with the Seneca nation of Indians, whereby title may be obtained to the whole or a portion of the Allegany reservation, or such relief secured for white settlers as the circumstances demand.

Resolved (if the senate concur), That the governor of the state of New York be authorized at any time to appoint a commissioner on behalf of the state to act in conjunction with a commissioner appointed by the United States for the purpose of carrying out the foregoing object.

Resolved (if the senate concur), That the governor be requested to transmit a copy of the foregoing preamble and resolutions to each of the senators and representatives in the congress of the United States from this state.

STATE OF NEW YORK, }
IN ASSEMBLY, January 18, 1871. }

The foregoing resolutions were duly passed.

By order of the assembly.

C. W. ARMSTRONG, *Clerk.*

STATE OF NEW YORK,
IN SENATE, *January 25, 1871.* }

The foregoing resolutions were duly concurred in.

By order of the senate.

HIRAM CALKINS, *Clerk.*

[In 1875 congress passed an act in conformity with the request contained in this resolution.]

L. 1873, Chap. 96—An act for the preservation of the timber and stone on the Onondaga Indian reservation.

Cutting of wood, etc., prohibited. SECTION 1. No person other than an Onondaga Indian shall cut upon, or remove from the Onondaga Indian reservation, in the county of Onondaga, any tree, timber, wood, bark or poles, under any pretense whatever, except as provided in the second section of this act.

When Indians may cut for sale, etc. § 2. No Indian shall cut any tree, timber, wood, poles or bark for the purpose of sale, or to be removed from said reservation, nor shall, under any pretense whatever, sell or remove, or caused to be removed, or be in any way instrumental or a party to the removal from said reservation, of any trees, timber, wood, poles or bark, except upon written permission for the same, signed by a majority of the chiefs of said Onondaga Indians, which permit shall particularly specify the quantity and kind of trees, timber, wood, bark or poles so sought to be cut and removed.

Lessee of saw-mill may sell lumber. § 3. The lessee of the saw-mill on said reservation may dispose of, to any person, any timber or lumber sawed by and belonging to him at said saw-mill.

Stone quarries not to be leased. § 4. No individual Indian shall have the right to lease any lands to any person to be used as a stone quarry.

Duty of agent. § 5. It shall be the duty of the duly appointed agent for the Onondaga Indians to prosecute any person violating the provisions of this act, in the name of the Onondaga Indian nation, or the chiefs of said nation may prosecute for said offenses.

Penalty. § 6. Any person offending against the provisions of this act shall be deemed guilty of a misdemeanor, and shall be punished by a fine not to exceed two hundred and fifty dollars, or by imprisonment in the penitentiary of Onondaga county for a period not to exceed six months, or by both such fine and imprisonment, and one-half of all such fines, when collected, shall be paid over to the agent of said Onondaga Indians, for the use and benefit of said Onondaga Indians, and the other half shall be paid into the treasury of Onondaga county.

L. 1873, Chap. 454—An act in relation to taxes illegally levied and assessed upon the Buffalo Creek, Allegany and Cattaraugus Indian reservations, under the provisions of chapter two hundred and fifty-four of the Laws of eighteen hundred and forty, and chapter one hundred and sixty-six of the Laws of eighteen hundred and forty-one.

Comptroller to cancel claims against counties of Erie and Cattaraugus for taxes assessed on Indian reservation. SECTION 1. The comptroller is hereby authorized, required and directed to cancel and discharge all claims, demands and charges standing upon the books of his office against the counties of Erie and Cattaraugus, for or

growing out of taxes assessed and levied upon the Buffalo Creek, Allegany and Cattaraugus Indian reservations lying within said counties, under and pursuant to chapter two hundred and fifty-four of the Laws of eighteen hundred and forty, and chapter one hundred and sixty-six of the Laws of eighteen hundred and forty-one, and for general town and county purposes, and no part of said taxes so levied and assessed upon said Indian reservations or the interest thereon, shall again be charged to either of said counties or to any town therein.

L. 1873, Chap. 455 — An act in relation to the Seneca Indians residing on the Cattaraugus and Allegany reservations.

Indians may sell timber, etc. SECTION 1. Any Indian residing upon either the Cattaraugus or Allegany reservations in this state may sell or dispose of, for his own benefit, any timber or trees, or the manufacture thereof, being or growing on any lands actually inclosed by a good, substantial fence and occupied by him or on lands which may be hereafter allotted to him, by the chiefs in council, or by the president and council elected by said nation, and entered in the clerk's book of records of said nation.

6 T. & C., 595.

Not to affect pending suits. § 2. This act shall in nowise affect any actions or proceedings already commenced or any actions or proceedings which shall be hereafter commenced, concerning transactions already taken place.

[Section 3 repeals inconsistent acts.]

L. 1874, Chap. 323 — An act making appropriations for certain expenses of government, and supplying deficiencies in former appropriations.

[The annual supply bill.]

[*Ext. act from § 2.*]

Attorney's salary. § 2. * * * hereafter the annual salary of such attorney of the Tonawanda band of Seneca Indians shall be one hundred and fifty dollars.

L. 1875, Chap. 162 — An act to reorganize the Thomas Asylum for Orphan and Destitute Indian Children, on the Cattaraugus reservation, and to provide for its management and maintenance.

Conveyance to the people ; management of asylum ; managers, term of office. SECTION 1. If, within ninety days after the passage of this act, the trustees of "The Thomas Asylum for Orphan and Destitute Indian Children," a corporation created by chapter two hundred and thirty-three of the laws of eighteen hundred and fifty-five, shall transfer and convey to the people of the state of New York, all of the property of said corporation, by a good and sufficient conveyance, to the satisfaction of the comptroller of the state of New York, and shall deposit the same with said comptroller, the management and control of said asylum shall be assumed and continued by ten managers on the part of the state, who shall serve without pay, and whose term of office shall be six years, subject to removal at any time by the governor, for cause shown ; and all vacancies caused by

removal, expiration of term of office, or otherwise, shall be filled by the governor, by and with the advice and consent of the senate.

First managers. § 2. The first managers shall be Eber M. Petit, Asher Wright, Elisha Brown, Henry C. Gaylord, Philo H. Carrier, white men, and Lewis Seneca, Sylvester Loy, Hiram Dennis, Joshua Pierce and Zachariah L. Jameson, Indians.

Orphan children, reception and care of. § 3. The said managers of said asylum shall, on application, receive destitute and orphan children from each of the several reservations located within this state, and shall furnish them such care, moral training and education, and such instruction in husbandry and the arts of civilization, as they shall prescribe by their rules and by-laws.

President and secretary; by-laws; superintendent and employees. § 4. Said managers shall organize and choose one of their number president, and appoint a secretary. They shall also make by-laws and rules and regulations for the transaction of their business, and for the regulation and management of said institution. They shall also appoint a suitable person as superintendent, and such other employees as may be necessary to properly carry on the business of said institution, and fix the compensation of said superintendent, and such other employees.

Visitation, etc., by state board of charities; annual report. § 5. The said asylum shall at all times be subject to the visitation, supervision and control of the state board of charities; and the managers of said asylum shall annually, on or before the fifteenth day of January, report to the legislature the condition of said asylum, including a true account in detail of the receipt and disbursement of all moneys that shall come into their hands, the number, age and sex of such destitute and orphan Indian children in said asylum, with the name and reservation to which they belong, and portion of the year each has been maintained and instructed in said asylum.

Annual appropriation. § 6. There shall hereafter be annually allowed and appropriated the sum of eight thousand five hundred dollars for the support and maintenance at the rate of eighty-five dollars per capita per annum for each child maintained and educated in said asylum.

L. 1887, Chap. 316—An act to authorize the purchase of additional lands for the use of the Thomas Asylum for Orphan and Destitute Indian Children, and to provide for the appointment of Indian trustees thereof.

Trustees to purchase additional land, to be conveyed to Indian trustees. SECTION 1. The trustees of the Thomas Asylum for Orphan and Destitute Indian Children, are hereby authorized to purchase fifty acres of additional land for the use of said asylum, the conveyance thereof to be made in trust to the Seneca Indian trustees of said asylum and their successors in office.

Comptroller to pay price. § 2. It shall be the duty of the comptroller, upon presentation to him of the certificate of the attorney-general that the proper conveyance has been executed in accordance with the provisions of section one of this act, to issue his warrant upon the treasurer for the sum appropriated by section one of chapter three hundred and thirty of the laws of eighteen hundred and eighty-six, for the purchase of said land, or for so much thereof as may be necessary to complete the purchase hereby authorized, the same to be paid by said treasurer to the treasurer of the said asylum.

Governor to appoint three Indian trustees. § 3. It shall be the duty of the governor of the state of New York, as vacancies may occur, to appoint and continue in office three trustees of the said asylum, who shall be Seneca Indians.

Repeal. § 4. All acts and parts of acts inconsistent with this act are hereby repealed.

L. 1875, Chap. 226 — An act in relation to the St. Regis tribe of Indians, in the county of Franklin.

St. Regis Indians, clerk and trustees of tribe to be elected; term of office. SECTION 1. The male members of the St. Regis tribe of New York Indians, over twenty-one years of age, shall meet on their reservation in the county of Franklin, on the first Tuesday in June next, between the hours of ten o'clock A. M., and four o'clock P. M., and elect three trustees and a clerk for said tribe; the trustees shall hold their office respectively for one, two and three years, to be decided by lot as hereinafter enacted; the clerk shall hold his office for one year, and thereafter the aforesaid members of said tribe shall meet in like manner on the first Tuesday of June in each year, and elect one trustee who shall hold his office for three years, and a clerk who shall hold his office for one year.

Trustees to meet and draw lots. § 2. Within ten days after the first election held under this act, the persons elected trustees shall meet at the office of the attorney for said tribe, and draw lots for the term each of said persons shall serve as trustees; the said attorney shall prepare three ballots on which shall be placed the figures one, two, three; the person drawing the ballot with the figure one, shall serve for one year, the one with the figure two, two years, and the one with the figure three, three years.

Trustees to have charge of timber and stone on lands; forfeiture. § 3. The trustees shall have charge of the timber and stone on the unoccupied lands of the said reservation, and they may prosecute, with the consent of the attorney for said tribe, in the name of the tribe by giving satisfactory security for costs to the court in which they prosecute, any person or persons other than Indians for any trespass on their reservation by cutting or removing timber, or removing any stone from the said reservation, and any person or persons other than Indians violating this provision shall forfeit and pay three times the value of any such property so cut or taken away.

Indian not to cut or dispose of timber, etc.; buying or receiving timber, etc., taken from reservation, forfeiture for. § 4. It shall not be lawful for any Indian to cut or dispose of any timber or stone on the said reservation except for his or their own use, and any Indian violating this provision may be prosecuted in like manner as if he were not an Indian; any person buying or receiving any timber, wood or stone taken from the said reservation without the written consent of the trustees or a majority of them, and the attorney for said tribe, shall forfeit twice the value thereof to be recovered by suit in like manner before stated.

Moneys received by trustees, disposition of. § 5. All sums of money recovered for any violations of the foregoing statute, and all sums of money received from any other source by the trustees or other parties belonging to said tribe, shall be paid to the attorney for paying their annuities, and after paying all legal charges of the prosecution, the balance shall be apportioned and divided among the individual members of the tribe in like manner as the annuity.

Compensation of trustees. § 6. The attorney aforesaid shall pay to each of the trustees the sum of ten dollars per annum, for their services as such trustees, out of any money in his hands belonging to said tribe, and no other compensation shall be allowed or retained by them for any services performed by them as such trustees.

L. 1878, Chap. 307 — An act to authorize the county clerk of Cattaraugus county to make and to certify to copies of the surveys and maps of the Allegany reservation as made by United States commissioners.

Copies of maps and surveys of Allegany reservation to be received in evidence. SECTION 1. The county clerk of Cattaraugus county may make and certify to copies of the surveys and maps of the Allegany reservation as made by United States

commissioners and on file in the clerk's office of said county, or any part or portion thereof, or of either of said maps, or of any lot, lease, part or portion thereof, and such copy, so certified, shall be received in evidence in any matter, action or proceeding, in which the original might be admitted in evidence upon being duly proved.

Clerk not subject to subpoena. § 2. The clerk of Cattaraugus county shall not be subject to subpoena to produce such maps or either of them or any certificates thereto, nor shall he be required to remove the same from the clerk's office of said county.

L. 1878, Chap. 320 — An act authorizing the adult male Seneca Indians, residing upon the Cornplanter reservation, to vote and hold office under the constitution of the Seneca nation of Indians.

Rights of Indians on Cornplanter reservation. SECTION 1. The male Seneca Indians of the age of twenty-one years and upwards, residing upon the Cornplanter reservation in the New York Indian agency, shall have the right to vote at any annual or special election of officers of the Seneca nation of Indians, and to hold office under the constitution of said Seneca nation, the same as if actually residing upon the Allegany reservation.

L. 1881, Chap. 188 — An act extending the general laws of the state of New York over lands included in the villages surveyed, located and established on the Allegany Indian reservation, by United States commissioners appointed for that purpose, constituting the estate therein when held under lease from the Seneca nation of Indians, a freehold estate; ratifying and confirming the acts of town, village and school officers concerning such lands and the residents thereof.

Certain lands, parts of towns; subject to general laws. SECTION 1. All those parts of the Allegany Indian reservation included in the villages of Vandalia, Carrollton, Great Valley, Salamanca, West Salamanca and Red House, as surveyed, located and established by John Manley, Joseph Scattergood and Henry Shanklin, commissioners appointed by the president of the United States for that purpose pursuant to an act of congress approved February nineteenth, eighteen hundred and seventy-five, are constituted parts of the several towns within which they are located, and all the general laws of this state are extended over and shall apply to the same. Provided always, that nothing in this section shall be construed to authorize the taxation of any Indian, or the property of any Indian not a citizen of the United States.

Acts of town officers confirmed. § 2. All acts of commissioners of highways or other town officers of the towns in which said villages are located, concerning the lands or roads therein, all proceedings incorporating villages on said lands, or of the officers of such villages concerning the same, or under such acts of incorporation; all proceedings forming school districts within such villages, and all acts or proceedings of school officers in such districts heretofore done or performed which would have been legal if such villages or the land included therein had not constituted a part of said reservation, are hereby ratified, legalized and confirmed.

Lease-lands to descend as real estate. § 3. Lands situate in said villages, held by or under lease from the Seneca nation of Indians and which the holders are entitled to have renewed at the expiration thereof by virtue of said act of congress are and shall be for all purposes considered a freehold estate and the owners of such leases freeholders, and the right of dower and tenant by curtesy shall attach thereto, and shall upon the death of any person owning the same without having devised it, descend in the same manner as a freehold of inheritance and shall for that purpose be treated as real estate. Provided, however, that the rights of Indians in such leases shall descend as provided by the laws of said Seneca nation.

L. 1881, Chap. 355 — An act extending the highway laws of the state of New York to Indian reservations therein.

Indian lands subject to highway laws. SECTION 1. The highway laws of this state are hereby extended over the Indian reservations located therein, as hereinafter provided.

Powers and duties of commissioners of highways. § 2. Commissioners of highways of towns in which any Indian reservation is located, in whole or in part, may by and with the consent of the national or tribal authorities of the tribe or nation of Indians occupying such reservation lay out and establish, in the manner provided by law, highways on or across such reservation, and the highway commissioner of such town shall thereafter be charged with maintenance of such road and the bridges thereon.

Proviso. § 3. Nothing contained in this act shall be construed to authorize the taxation of any Indian, or the property of any Indian not a citizen of the United States.

L. 1887, Chap. 121 — An act to provide for the leasing of lands in the Onondaga Indian reservation in Onondaga county.

Any Indian may lease land; chiefs may lease quarries. SECTION 1. Any Indian residing on the Onondaga reservation and a member of the Onondaga tribe of Indians, owning or possessed of improved lands therein, may lease said lands to any white person or persons for a term not to exceed ten years; and the chiefs of said nation, or a majority of them, may lease the stone quarries and the national lands, but no such lease shall be valid, or give any legal right to such white person or persons, under or by virtue of said lease, unless the contract of leasing of such lands or quarries be in writing, and be drawn under the direction of the agent of the said Onondaga Indians, and approved by said agent in writing, duly indorsed upon said contract, and the proper and necessary expenses thereof shall be paid by the person or persons to whom the lands shall be leased.

L. 1888, Chap. 84 — An act to appoint a commissioner to ascertain who are the payees under certain treaties made by this state, dated respectively February twenty-fifth, seventeen hundred and eighty-nine, and July twenty-seventh, seventeen hundred and ninety-five, and to modify said treaties.

On application of attorney-general supreme court to appoint commissioner. SECTION 1. Upon its appearing that due notice has been given the attorney-general of this state, of a motion to be made before the supreme court at any regular special term thereof, held in the county of Erie, in said state, to appoint a commissioner to ascertain who are the payees under certain treaties made by this state, dated respectively February twenty-fifth seventeen hundred and eighty-nine, and July twenty-seventh, seventeen hundred and ninety-five, and to modify said treaties, said court is hereby authorized to appoint a commissioner for the purposes and with the powers hereinafter provided.

Duty of attorney-general. § 2. It shall be the duty of the attorney-general of this state to attend before said court, upon the hearing of said motion, and to protect the interests of all parties interested in said annuities, and it shall also be his duty to attend before such commissioner upon any hearing or hearings appointed to be held by such commissioner, for the like purpose of protecting the interest of all parties interested in said annuities.

Objects of inquiry. § 3. Such commissioner shall be appointed for the following purposes:

1. To ascertain whether the Cayuga Indians now residing in Canada, and who claim to be a part of such posterity, are in fact a part or portion of the posterity

of the Cayuga* Indians, with which the state of New York made said treaties of seventeen hundred and eighty-nine, and seventeen hundred and ninety-five.

2. In case they are a part or portion of the posterity of the Cayuga nation of Indians, with which the state of New York made said treaties, then said commissioners shall ascertain the number of Cayuga Indians that are the posterity of said Cayuga nation both in the United States and in Canada, and shall determine and designate the shares belonging to each respectively, whether per capita or otherwise.

Commissioner to give notice. § 4. Said commissioner shall cause a reasonable notice of the time and place of hearing to be given to the said attorney-general, and to the Cayugas residing in the United States, by sending such notice to the United States Indian agent in charge of such Indians, and shall also notify the Cayugas residing in Canada, of the time and place of such hearing or hearings, through their authorized agent or attorney.

Hearings. § 5. Said commissioner shall have such hearing or hearings, and take such testimony as in his judgment will put him in possession of the facts to be ascertained, and for such purpose he is hereby authorized and empowered to administer oaths and affirmations, and to examine such witnesses under oath, as he may deem necessary.

Cayugas; census as evidence. § 6. In ascertaining the number of Cayuga Indians both in the United States and in Canada, the said commissioner is hereby authorized to accept as testimony the latest official census taken by the government of the United States, or certified extracts from the books of the comptroller of this state, as to the number of Cayugas residing in the United States, and also the latest official census taken by the Canadian government as to the number of such Cayugas residing in Canada.

Execution of contract by commissioner. § 7. In case said commissioner is of the opinion, and shall determine, that the Cayuga Indians residing in Canada are a part or portion of the posterity of said Cayuga nation, with which this state made said treaties, he shall be, and hereby is authorized and empowered for and on behalf of the state of New York, to make a contract with that portion of the Cayuga Indians residing in the Dominion of Canada, modifying and changing the place and manner of payment of their portion of the annuities provided for in said treaties.

Id., by Cayugas. § 8. In case such contract or agreement, as aforesaid shall be made with said Cayuga Indians residing in Canada, it may be made through the duly authorized agent or attorney of said Indians, whose authority to act for them has been approved by the government of the Dominion of Canada, but it shall not be operative or of any binding force or effect until the same shall have been approved by an order of said supreme court on a motion for such order of approval, and on its appearing to said court that due notice of such motion had been given said attorney-general, whose duty it shall be to attend thereon, for the purpose of protecting the interest of all parties interested in said annuities.

Execution, filing, approval, etc. § 9. In the event said contract or agreement shall be made and approved as hereinbefore provided, it shall be made and signed in duplicate, and a certified copy of said order of approval, duly certified by the clerk of said court, and under the seal of said court shall be attached to each duplicate, and one of said duplicates shall be filed in the office of the secretary of state of the state of New York, and one shall be given to the said agent or attorney of the Cayuga Indians residing in Canada.

Money, how paid under contract. § 10. When such contract shall have been made, approved and filed as aforesaid, the comptroller of the state of New York shall annually, on the first day of June in each and every year, issue a warrant for the sum of money so determined to be due the Cayuga Indians residing in Canada,

*So in the original.

payable to the order of the person authorized by them to receive it, whose authority to act for them has been approved by the government of the Dominion of Canada; and the treasurer of the state of New York shall annually, on the first day of June in each and every year, on said warrant of the comptroller, pay to the person named in said warrant, the sum of money set forth in said warrant, out of the money appropriated for the payment of the annuities provided for by said treaties with the Cayuga nation of Indians. The amount of said annuities payable to the Cayuga Indians residing in the United States, shall be paid to them as is provided in contracts, or treaties made with them.

Withholding annuities. § 11. The comptroller of the state of New York is hereby authorized and directed to withhold the payment of said annuities until said commissioner shall file said contract or agreement or said report, as the case may be, not later, however, than the first day of November, eighteen hundred and eighty-eight.

Provision if Cayugas not entitled. § 12. In case said commissioner shall be of the opinion and shall determine that the Cayuga Indians residing in Canada are not a part or portion of the Cayuga nation of Indians with which the state of New York made said treaties, he shall file a report, setting forth such opinion and determination, in the office of the secretary of state of the state of New York, and in case he files such report, nothing in this act contained shall be construed as affecting or changing the present apportionment of said annuities.

Compensation and expenses. § 13. Said commissioner shall receive the sum of ten dollars per day for his services for the time necessarily employed in taking such testimony and in making such contract or agreement or such report as aforesaid and all necessary expenses incurred by him in so doing, said per diem and expenses not to exceed the sum of two hundred and fifty dollars.

Id., money, how paid, etc. § 14. The comptroller of this state is hereby authorized and directed to issue a warrant for the said sums of money due to said commissioner payable to the order of said commissioner upon his sworn statement of his said charges and expenses. And the treasurer of this state is hereby authorized and directed to pay said warrant out of said annuities.

Proviso. § 15. Nothing in this act contained shall give said commissioner any right or power to examine into any questions affecting the title to any land in this state.

CHAPTER V.

OF THE PUBLIC OFFICERS OF THIS STATE, OTHER THAN MILITIA AND TOWN OFFICERS; THEIR ELECTION OR APPOINTMENT; THEIR QUALIFICATIONS, AND THE TENURE OF THEIR OFFICES. (95)

TITLE I.—OF THE NUMBER, LOCATION, AND CLASSIFICATION OF THE PUBLIC OFFICERS OF THE STATE.

TITLE II.—OF LEGISLATIVE OFFICERS.

TITLE III.—OF EXECUTIVE OFFICERS.

TITLE IV.—OF JUDICIAL OFFICERS.

TITLE V.—OF ADMINISTRATIVE OFFICERS.

TITLE VI.—GENERAL PROVISIONS APPLICABLE TO ALL THE CIVIL OFFICERS OF THIS STATE, OR TO CERTAIN CLASSES OF THEM.

TITLE I.

Of the Number, Location, and Classification of the Public Officers of the State.

- Sec. 1. Names and number of the several civil officers.
 2. Common councils of cities (except New York) to determine the number of commissioners of deeds and notaries.
 3. Copy of such determination to be transmitted to governor.
 4. Nominations to be made conformably to such determination.
 5. County courts to determine number of commissioners of deeds in towns.
 6. Such commissioners not to be increased unless in conformity to such determination.
 7. What offices to be vacated under this chapter.
 8. In certain cases no new appointment to be made.
 9. Circuit judges, etc., where to reside.
 10. County judges and recorders where to reside.
 11. Surrogates, etc., local officers.
 12. Justices of the peace where to reside, etc.
 13. Commissioners of deeds where to reside, etc.
 14. Notaries public where to reside, etc.
 15. Sheriffs, etc., where to reside.
 16. Administrative officers confined in the execution of their duties.

[Most of the offices enumerated in this title have been abolished by the Constitution of 1846 and subsequent amendments, or by statutes passed since the Revised Statutes. The officers thus superseded are marked with asterisks.]

SECTION 1. There shall be elected or appointed, in the manner herein after declared or prescribed, the following civil officers, who shall be arranged in classes to be denominated legislative, executive, judicial and administrative; but this classification shall not be construed as defining the legal powers of the officers, that shall be assigned to either class: Classification of the civil officers.

I. IN THE CLASS OF LEGISLATIVE OFFICERS.

- Thirty-two senators;
 One hundred and twenty-eight members of the assembly;
 A speaker of the house of assembly from its own body;
 A clerk, a sergeant-at-arms, a door-keeper, and so many assistant door-keepers, messengers, and other subordinate officers for each Legislative.

TITLE 1. house of the legislature, as such houses shall respectively deem necessary.

[1861]

2. IN THE CLASS OF EXECUTIVE OFFICERS.

Executive.

A governor and lieutenant-governor ;

A secretary of state, a comptroller, a treasurer, an attorney-general, a surveyor-general,* and a state printer ;*

[State engineer and surveyor substituted for surveyor-general. Const., art. V, § 2. State printer abolished. See L. 1854, ch. 197, amending L. 1846, ch. 24.]

A private secretary for the governor, and a door-keeper of the executive chamber.

Judicial.

3. IN THE CLASS OF JUDICIAL OFFICERS.

Chancery.

A chancellor,* a register* of the court of chancery, to reside and keep his office in the city of Albany, an assistant register* of the same court, to reside and keep his office in the city of New York ;

[Offices abolished. Const., art. XIV, § 8.]

A clerk* of the said court, to reside and keep his office in the village of Poughkeepsie, and a clerk* thereof, to reside and keep his office in the village of Utica ;

[The same.]

A sergeant* of said court, to reside in the city of Albany, and a sergeant* thereof, to reside in the city of New York ;

[The same.]

Five masters* and two examiners* in chancery in the city and county of New York, and not more than three masters* and three examiners* in every other county of this state ;

[The same.]

So many commissioners* to take affidavits to be read in the said court, as the chancellor shall from time to time think proper to appoint ;

[The same.]

Supreme court.

A chief justice* and two justices* of the supreme court ; three clerks* of the said court, one to reside and keep his office in the city of Albany, one in the city of New York, and one in the village of Utica ; and three criers* of the said court, one to reside in Albany, one in New York, and one in the county of Oneida ;

[Office abolished, Const., art. XIV, § 8, and provision made for a new supreme court in id., art. VI.]

A commissioner* to perform the duties of a justice of the supreme court at chambers, to be denominated "Supreme Court Commissioner," to reside in each of the following counties and places: In the counties of Allegany, Cattaraugus, Chautauque, Erie, Franklin, Genesee, Herkimer, Lewis, Madison, Niagara, Oneida, Ontario, Orange, St. Lawrence, Suffolk, Sullivan, Tompkins, Ulster and Westchester ; one to reside either in the county of Tioga or in the county of Steuben ; in the town of Plattsburgh, in the county of Clinton ; in the village of Catskill, in the county of Greene ; in the village of Poughkeepsie, in the county of Dutchess ; in the village of Watertown, in the county of Jefferson ; in the village of Canajoharie, in the county of Montgomery ; in the village of Glen's Falls, in the county of

Warren; in the town of Kingsbury, in the county of Washington; TITLE 1.
and in the town of Whitehall, in the county of Washington;

[Office abolished, Const., art. XIV, § 8.]

So many commissioners to take affidavits to be read in the supreme court, as the justices thereof shall think proper to appoint.

A clerk* of the court for the trial of impeachments and the correction of errors, a crier, and a sergeant* of the same court; [97]
Court of errors.

[The court abolished, Const., art. VI.]

A reporter* of the decisions of the supreme court, and of the decisions of the court for the trial of impeachments and the correction of errors, to be denominated the "state reporter;" Reporters

[See Code Civ. Proc.]

A reporter* of the decisions of the court of chancery, to be denominated the "chancery reporter;"

[Office abolished.]

A circuit judge* for each of the eight circuits, and a clerk* of the court of equity of each circuit; Circuit courts.

[Office abolished, Const.]

A first judge* and four judges* of the county courts of each county, except the city and county of New York, in which there shall be a first judge* of the court of common pleas; County courts.

[Office abolished by Const., art. XIV, § 8, except in New York county, where the court has been reorganized.]

A chief justice and two associate judges of the superior court of law in and for the city and county of New York;

[Laws of 1828, chap. 321, April 21, 1828. The court reorganized by the Constitution and subsequent statutes.]

A clerk, a sheriff, a surrogate, and a district attorney for each county; Clerks, &c.

A coroner for the city and county of New York, and four coroners for every other county; Coroners.

[Altered as to New York by the charters. By special acts, some counties have more than four coroners.]

A register of the city and county of New York, and a clerk* of the court of oyer and terminer and general sessions of the same city. New York.

[The county clerk is now clerk of the oyer and terminer.]

A recorder of each of the cities of Albany, New York, Hudson and Troy; Recorders.

A clerk of the city of Hudson, and a marshal for each of the cities of Hudson and Troy; Clerks of cities.

Three special justices* for the city of New York, and a clerk* of the police office in said city; Special Justices.

[These offices abolished by subsequent statutes.]

Three justices of the marine court for the city of New York, and a clerk of said court;

[The court reorganized by subsequent statutes; and its name changed to "city court of New York," by L. 1883, ch. 26.]

An assistant justice* for the first, second and third wards; an assistant justice* for the fourth and sixth wards; an assistant justice* for the fifth, eighth and fourteenth wards; an assistant justice* for the

TITLE 1. seventh, tenth and thirteenth wards; an assistant justice* for the ninth and eleventh wards, and a clerk* to each of the said assistant justices, and two assistant justices* for the twelfth ward of the city of New York;

[Abolished by subsequent statutes.]

Three justices of the justices' court of the city of Albany, and a clerk of said court;

A justice of the peace* for the fifth ward of the city of Albany;
[Abolished.]

Three justices* of the justices' court of the city of Hudson, and a clerk of said court;

[Court abolished.]

Not less than three, nor more than six justices of the peace for the city of Schenectady;

[Now four; L. 1848, ch. 155.]

Justices.

Four justices of the peace for each town in the state;

[By special statutes, some towns have a different number.]

Commissioners of deeds.

[98]

Not less than two, nor more than four commissioners to take the proofs and acknowledgments of deeds, and to perform certain other duties, to be denominated "commissioners of deeds," for each town* in the state, and so many of the like commissioners for each of the cities in this state, as shall from time to time be determined in the manner herein after provided;

[Abolished in towns.]

Thirty-six commissioners of deeds for the city and county of New York;

[L. 1829, ch. 52.]

Notaries public.

Fifty notaries public in the city and county of New York.

[L. 1829, ch. 52.]

So many notaries public in each of the other cities of this state, as shall from time to time be determined, in the manner herein after provided;

So many notaries public in each of the counties of this state, except the city and county of New York, as the governor and senate shall think proper to appoint;

[See statutes regulating the number of notaries public at the end of this title.]

Counsellors, &c.

And so many counsellors, solicitors and attornies, as shall from time to time, be licensed to practice by the several courts of law or equity in this state.

Administrative.

4. IN THE CLASS OF ADMINISTRATIVE OFFICERS.

Four canal commissioners,* two of whom shall be acting commissioners;

[Office abolished, Const., art. V, § 8.]

Canal officers.

Two canal appraisers,* and so many superintendents of canal repairs as the canal board shall from time to time appoint;

[Office of canal appraisers abolished, L. 1883, ch. 205.]

Mayors, &c.

A mayor of each of the cities in this state;

TITLE I

A president* of the village of Utica;

[Office abolished.]

A county treasurer for each county, except the city and county of New York;

County
treasurers.

Loan-officers* under the act of the fourteenth of April, one thousand seven hundred and ninety-two, entitled "An act for loaning monies belonging to this state," for each county in which vacancies shall occur in the office of any such officer;

Loan off-
cers.

[Office abolished.]

Commissioners of loans* under the act of the eleventh of April, one thousand eight hundred and eight, entitled "An act authorising a loan of monies to the citizens of this state," for each county in which vacancies shall occur in the office of any such officer;

[Office abolished.]

Loan-officers for the county of Putnam, whenever vacancies shall occur in the office of any such officer;

Five inspectors* of the state prison at Auburn;

[Office abolished, Const., art. V. § 4.]

Prison in-
spectors.

A superintendent of the Onondaga salt springs, and an inspector* of salt in the county of Onondaga;

[Inspector abolished. See ch. 9, *post.*]

Salt
springs.

A superintendent* of the salt springs at Montezuma;

[Abolished, L. 1846, ch. 188.]

Three harbour-masters of the port of New York, and so many wardens and branch pilots for the same port, as the governor and senate shall think proper to appoint;

[See L. 1850, ch. 72; L. 1857, ch. 405; and L. 1883, ch. 357.]

Harbor
masters,
&c.

Not more than fifty-four auctioneers* for the city and county of New York, four for the city and county of Albany, and one or more for every other city, village or county, where they shall be deemed necessary by the appointing power.

[Office of auctioneer abolished, L. 1833, ch. 52.]

Auction-
eers.

An inspector* of flour and meal for each of the cities of Albany and New York, and one or more such inspectors* in every other city or county, where they shall be deemed necessary by the appointing power;

[Office abolished, Const., art. V, § 8.]

[99]
Inspectors
of flour.

An inspector* of beef in the city of New York, to inspect and put up beef, killed according to the rites of the people called Jews;

[The same.]

Inspectors
of beef, &c.

Not more than ten inspectors* of beef and pork for the city and county of New-York, and one or more such inspectors in every other county where they shall be deemed necessary, by the appointing power;

[The same.]

One inspector* of pot and pearl ashes for the city and county of New-York, and not more than two such inspectors in every other

Inspectors
of ashea.

TITLE 1. county where they shall be deemed necessary by the appointing power;

[The same.]

Inspectors of lumber. Not less than seven, nor more than ten inspectors* of lumber for the city and county of New-York; not less than two, nor more than four for the city of Albany; one for the city of Hudson; and so many in other parts of the state, as may be deemed necessary by the appointing power;

[The same.]

Inspectors of staves and heading. An inspector-general* of staves and heading for the city and county of Albany, and one for the city and county of New-York;

[The same.]

Cullers of do. Not less than eight, nor more than ten cullers* of staves and heading, for the city and county of New-York; not less than four, nor more than six, for the city and county of Albany; two or more for the city of Hudson, and so many in the other counties as shall be deemed necessary by the appointing power;

[The same.]

Inspectors of sole-leather. Five inspectors* of sole leather for the city and county of New-York; two for the city and county of Albany; two for the city of Troy; one for each of the cities of Hudson and Schenectady; one for the village of Brooklyn, in the county of Kings; one for the village of Catskill, in the county of Greene; one for the port of Sagg-Harbour, in the county of Suffolk; one for the village of Lansingburgh, in the county of Rensselaer; one for the village of Waterford, in the county of Saratoga; one for the village of Utica, in the county of Oneida; one for the village of Ithaca, in the county of Tompkins; one for the village of Auburn, in the county of Cayuga; one for the village of Rochester, in the county of Monroe; one for the village of Newburgh, in the county of Orange; one for the village of Batavia, in the county of Genesee; one for the county of Lewis; one for the county of Onondaga; one for the county of Herkimer; one for the county of Montgomery; one for the county of Madison; one for the county of Ulster; one for the county of Oneida; one for the county of Jefferson; two for the county of Ontario, one of whom shall reside in the village of Geneva; and so many such inspectors* for the several other counties or villages in this state, as shall be deemed necessary by the appointing power;

[The same.]

Inspector of flaxseed. An inspector* of flaxseed for the city and county of New-York;

[The same.]

[100] Inspectors of tobacco. An inspector* of leaf tobacco for the city and county of New York;

L. 1828, ch. 274, April 19, 1828.]

Inspectors of fish. Four inspectors* of fish for the city of New York; one for the county of Jefferson; one for each of the towns of Richland and Orwell, in the county of Oswego; and one or more in the other counties of the state, as may be deemed necessary by the appointing power;

[The same.]

An inspector* of fish or liver oil, for each of the cities of New-York, Albany and Troy;	TITLE I.
[The same.]	Inspectors of oil.
An inspector* of distilled spirits, for the city of New-York; and one for each other county of the state, where such an appointment shall be deemed necessary by the appointing power;	Inspectors of spirits.
[The same.]	
An inspector* of hops for each of the cities of New-York, Albany and Troy; and for each of the villages of Utica, Oswego, Buffalo, Ithaca and Whitehall;	Inspectors of hops.
[The same.]	
One weigher* at the quarantine ground, on Staten Island;	Weigher.
A health officer, a resident physician, and a health commissioner, for the city and county of New-York;	
A health officer for the city of Albany, and one for the city of Hudson;	Health officers.
[There is now a health officer in every city, village, and town. See ch. 14, tit. 6 ^a , <i>post.</i> .]	
So many directors of incorporated banks as the state may be authorized, by the acts of incorporation, to appoint;	Bank directors.
Fifteen wreck-masters, in the county of Suffolk; twelve in the county of Queens; three in the county of Kings; two in the county of Richmond, and two in the county of Westchester;	Wreck masters.
A county sealer for each county; and the sealers for the counties of Albany and Oneida, shall be deemed assistant state sealers*;	County sealers.
Not less than three, nor more than five commissioners to inspect turnpike roads, in each county in this state, in which there shall be a turnpike road whose act of incorporation contains no provision for the appointment of special inspectors of such road;	Inspectors of turn-pikes.
An agent for the Onondaga tribe of Indians, five or more superintendents; and not less than three, nor more than five superintendents of the Brothertown Indians;	Indian officers.
An attorney* for the Oneida Indians;	
And a receiver of the profits of the state pier at Sagg-Harbour.*	Receiver at Sagg-Harbor.
[Compiled from the Constitution of 1821, and from the statutes in force in September, 1827, except where otherwise specially noted.]	

*Since the enactment of the Revised Statutes, the Constitution and statutes have so changed the public officers that the foregoing enumeration is of but little value. The public officers under the existing Constitution and laws are the following, omitting temporary officers, such as commissioners to inquire, etc., military officers, officers of state asylums, officers created by city and village charters, and other officers of a purely local character; also clerks, attendants, and other subordinates and employees.

1. IN THE CLASS OF LEGISLATIVE OFFICERS.

Legislative. Thirty-two senators;

One hundred and twenty-eight members of the assembly;

A speaker of the house of assembly from its own body;

A clerk, a sergeant-at-arms, a door-keeper, and other subordinate officers for each house of the legislature, as fixed by statute.

2. IN THE CLASS OF EXECUTIVE OFFICERS.

Executive. A governor and lieutenant-governor;

A secretary of state, a comptroller, a treasurer, an attorney-general, and a state engineer and surveyor; and one or more deputies for each of the said officers.

TITLE 1.
 Commis-
 sioners of
 deeds and
 notaries in
 certain
 cities how
 limited.

§ 2. The common council of each of the cities in this state, except the city of New York, on or before the first day of January in the year one thousand eight hundred and thirty, and once at the end of every two years thereafter, shall by resolution of the board, determine and limit the number of commissioners of deeds and notaries public to be next appointed in and for their respective cities.

[Superseded by L. 1848, ch. 75; id., ch. 161, *post.*]

A private secretary for the governor.

3. IN THE CLASS OF JUDICIAL OFFICERS.

Court of appeals, judges. A chief judge and six associate judges of the court of appeals.

Const., art. VI, §§ 2, 20; L. 1870, ch. 86.

Id., clerk. A clerk and deputy clerk of the court of appeals, who shall keep his office at the seat of government.

Id.

Id., reporter. A reporter of the decisions of the court of appeals (state reporter).

Id.

Justices, supreme court. Seven justices of the supreme court in the first judicial district; six justices of the supreme court in each of the second, fifth, seventh and eighth judicial districts; and five justices of the supreme court in each of the third, fourth and sixth judicial districts.

Const., art. VI, § 6 and § 28, *bis*.

Reporter, supreme court. A reporter of the decisions of the supreme court (supreme court reporter).

L. 1875, ch. 131.

[The clerks of the several counties are *ex officio* clerks of the supreme court and county court.]

Const., art. VI, § 20.

County judge. A county judge in each county of the state, except the city and county of New York.

Const., art. VI, § 15.

Special county judge. A special county judge in each of the counties of Cayuga, Chautauqua, Chenango, Jefferson, Monroe, Oneida, Orange, Oswego, St. Lawrence, Sullivan, Tioga, Tompkins, and Washington.

Surrogate. A surrogate for each county in the state having a population exceeding forty thousand, in which the board of supervisors, at any meeting of such board, may, by resolution, provide for the election of such officer other than the county judge.

Const., art. VI, § 15.

Special surrogate. A special surrogate in each of the counties of Cayuga, Chautauqua, Jefferson, Oneida, Orange, Oswego, St. Lawrence, Sullivan, Washington.

Justices of sessions. Two justices of sessions in each county, except the city and county of New York and the county of Kings.

Const., art. VI, § 15; L. 1888, ch. 111.

Judges of superior court of New York. Six judges and a clerk of the superior court of the city of New York.

Const., art. VI, § 12.

Judges of court of common pleas. Six judges and a clerk of the court of common pleas for the city and county of New York.

Const., art. VI, § 12.

§ 3. A copy of each determination to be made by the common council of any city, under the corporate seal, and attested by the mayor of the city, shall be transmitted to the governor within twenty days after the same shall have been made. TITLE 1.
[101]

§ 4. No nomination or appointment shall be made by the governor to any of the offices so limited, as stated in the preceding sections, unless in conformity to the limitation.

Judges of superior court, Buffalo. Three judges and a clerk of the superior court of Buffalo.

Const., art. VI, § 12.

Judges of city court of Brooklyn. Three judges and a clerk of the city court of Brooklyn.

Const., art. VI, § 12.

City judge, Yonkers. A city judge and a clerk of the city court of Yonkers.

L. 1873, ch. 61.

Justices N. Y. city court. Six justices and a clerk of the city court of the city of New York.

L. 1882, ch. 410, § 1206.

City judges, New York. A city judge and a judge of the court of general sessions of the city and county of New York.

L. 1882, ch. 410, §§ 1521, 1523.

County officers. A clerk, a sheriff, and a district attorney and four coroners for each county.

L. 1852, ch. 289.

[In some counties there are more and in some less than four coroners, by special statute.]

Register, etc., New York. A register for the county of New York, and a deputy register.

L. 1853, ch. 610.

Clerk of oyer and terminer, etc. A clerk of the court of oyer and terminer and general sessions of the same county.

L. 1882, ch. 410, § 1529.

Register, etc., for Kings county. A register in and for the county of Kings, and a deputy register.

L. 1852, ch. 83.

Register, etc., for Westchester county. A register in and for the county of Westchester, a deputy register, and a special deputy register.

L. 1858, ch. 293; L. 1887, ch. 243.

Recorders. Recorders in the several cities.

L. 1844, ch. 319; L. 1848, ch. 116; and city charters.

Justices, New York. A justice in each of the ten judicial districts in the city of New York, to hold the district court in said district; and a clerk of each of the district courts.

L. 1882, ch. 410, §§ 1280, 1281.

Id., Albany. Three justices of the city court of Albany, and a clerk of said court.

L. 1884, ch. 122.

Id., Troy. Two justices of the justices' court of the city of Troy.

L. 1876, ch. 18; L. 1880, ch. 256.

Justices of the peace. Four justices of the peace for each town.

[By special statutes some towns have a different number.]

TITLE 1.

Commissioners of deeds in towns.

§ 5. The judges of the county court in each county, shall, at each county court, next preceding the annual meeting of the judges and supervisors for the purpose of appointing commissioners of deeds, determine by rule of court the number of commissioners of deeds in each town of the county, for the year next ensuing such annual meeting.

[Superseded by L. 1840, ch. 238.]

Commissioners of deeds. So many commissioners to take the proof and acknowledgment of deeds, and to perform certain other duties, to be denominated "commissioners of deeds," for each of the cities in this state, as the common councils to the several cities, except the city of New York, on or before the first day of January, in the year one thousand eight hundred and fifty-one and at the end of every two years thereafter, by resolution of the board determine, to be appointed in and for said cities respectively;

L. 1848, ch. 161. This office was abolished in towns, L. 1840, ch. 238.

Id., for city and county of New York. Seven hundred and twenty-five commissioners of deeds for the city and county of New York.

L. 1882, ch. 410, § 100.

Notaries. Notaries public in each county.

Counsellors, etc. And so many counsellors and attorneys as shall from time to time be admitted to practice by the supreme court.

4. IN THE CLASS OF ADMINISTRATIVE OFFICERS.

Public works. A superintendent, a deputy superintendent and three assistant superintendents of public works.

Const., art. V, § 3; L. 1887, ch. 123.

Canal officers. So many superintendents of canal repairs as the canal board shall from time to time appoint.

L. 1836, ch. 287.

Banks. A superintendent and deputy superintendent of the banking department.

L. 1882, ch. 409, § 2.

Insurance. A superintendent and deputy superintendent of the insurance department.

Public instruction. A superintendent and deputy superintendent of public instruction.

Mayors. A mayor of each of the cities in this state.

County treasurers. A county treasurer for each county, except the city and county of New York.

State assessors. Three state assessors.

U. S. loan commissioners. Two commissioners for loaning certain moneys of the United States in each county.

[By ch. 118, L. 1832, the duties of "loan officers" were charged upon "loan commissioners" in each county. By ch. 150 of 1837, the offices of commissioners for loaning moneys of the United States deposit were created. By ch. 337 of 1850, provision was made for the final settlement of the loans under charge of the "loan commissioners," and the abolition of the office.]

State prison officers. A superintendent of state prisons;

Const., art. V, § 4.

An agent for discharged convicts;

L. 1887, ch. 424.

§ 6. At such annual meeting, no increase shall be made in the TITLE 1. number of such commissioners in any town, unless in conformity to Ib. such previous determination of the judges.

[The same.]

§ 7. No limitation contained in this chapter, or to be made in the mode herein prescribed, of the number of persons to be appointed to any office, shall be construed to vacate the office of any persons Offices when vacated.

To each of the state prisons an agent, a warden, a principal keeper, a clerk, a chaplain, a physician and surgeon, teachers, kitchen keeper, store keeper, hall keeper, yard keeper, keepers of convicts, officers of guards, and guards; and a matron, assistant matrons and female teachers for the female convict prison at Sing Sing.

[L. 1847, ch. 460, tit. II, § 40; L. 1849, ch. 141; L. 1854, ch. 240; L. 1855, ch. 522; L. 1877, ch. 312.]

Regents. Nineteen regents of the university, in addition to those who are regents *ex officio*.

State commissioners. Three railroad commissioners, a secretary, an inspector, and a marshal of the board of railroad commissioners.

[L. 1882, ch. 353.]

Three commissioners of claims, and a clerk of the board of claims.

[L. 1883, ch. 205.]

Three state commissioners of health, in addition to the members of the state board of health *ex officio*, etc.

[L. 1880, ch. 322.]

A commissioner of statistics of labor.

[L. 1883, ch. 356.]

Three forest commissioners.

[L. 1885, ch. 283.]

Three civil service commissioners.

[L. 1883, ch. 354.]

A dairy commissioner.

[L. 1884, ch. 202.]

Five commissioners of the state reservation at Niagara.

[L. 1883, ch. 336.]

Eleven state commissioners of public charities, in addition to the members of the state board of health *ex officio*.

[L. 1867, ch. 951; L. 1873, ch. 571.]

A state commissioner in lunacy;

Six state commissioners of fisheries; including the shell fish commissioner.

[L. 1868, ch. 285; L. 1869, ch. 309; L. 1887, ch. 584.]

Three quarantine commissioners;

A commissioner of emigration, in addition to those who are commissioners *ex officio*; and two deputy commissioners.

[L. 1883, ch. 286.]

A commissioner of the new capitol.

[L. 1883, ch. 146.]

Miscellaneous. Three members of the state board of mediation and arbitration;

[L. 1887, ch. 63.]

A factory inspector and an assistant factory inspector;

[L. 1886, ch. 409.]

Five members of the state board of pharmacy;

[L. 1884, ch. 361.]

Nine trustees of the board of control of the state agricultural experiment station, and a director of such station;

[L. 1881, ch. 702.]

- TITLE I.** now being, or who shall then be in office; except commissioners of deeds and notaries public in cities, whose offices shall be vacated on the first day of January, one thousand eight hundred and thirty.
- When no new appointment to be made.** § 8. If, at the expiration of the term of office of any one or more persons holding any of the offices so limited or to be limited, the number of persons holding the same office shall exceed the limitation then in force, no nomination or appointment of any one or more persons shall be made to such office for the district, county or place to which the limitation applies, until the number of persons holding the same shall be so reduced, as not to exceed the limitation then in force.
- Circuit judges, &c., how far local officers.** § 9. The offices of circuit judge, supreme court commissioner, and of master and examiner in chancery, shall so far be deemed local, as to require the residence of each judge, master and examiner, within the circuit, district, county or place, for which he shall be appointed.
[Superseded by Const., art. VI, § 7.]
- County judges and recorders.** § 10. Judges of county courts, and recorders of cities, must reside within the county or city for which they shall be respectively appointed.
[See Const., art. VI, § 15.]
- Surrogates, &c.** § 11. Surrogates, supreme court commissioners, commissioners of deeds, and justices in cities, are local officers; and each officer shall be confined, in the execution of his duties, to the district or county for which he shall be appointed.
- [109] Justices, 21 Wend., 563; 9 Wend., 322.** § 12. Justices of the peace must reside in the town for which they were chosen; and shall not try a civil cause in any other town, except in cases otherwise provided for by law.

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- A superintendent of weights and measures ·
 A state oyster protector;
 [L. 1886, ch. 300, § 4.]
 Game and fish protectors;
 An inspector of gas meters;
 Nine trustees of the New York State Soldiers' and Sailors' Home, in addition to those who are trustees *ex officio*;
 [L. 1878, ch. 48.]
 An inspector of public works;
 [L. 1875, ch. 227.]
 A superintendent of public works;
 A superintendent of public buildings;
 [L. 1883, ch. 349.]
 A state entomologist;
 A director of the state museum;
 A state geologist;
 A state botanist;
 Three state assessors;
 Superintendents, agents, and attorneys for Indians;
 Superintendents of the poor in each county except Albany, Kings, New York, and Putnam;
 School commissioners in each county;
 A superintendent of the Onondaga salt springs;
 [The office of superintendent of salt springs at Montezuma, and of inspector of salt in the county of Onondaga, abolished by L. 1846, ch. 188.]

§ 13. Commissioners of deeds must reside within the respective towns for which they shall be chosen or appointed, but may execute the duties of their office at any place within the county.

TITLE 1.
Commissioners of deeds.

[Office abolished in towns, L. 1840, ch. 238.]

§ 14. Notaries public must reside in the respective cities or counties for which they shall be appointed, but may execute the duties of their office at any place within the state.

Notaries.

[Modified by various subsequent statutes; see index.]

§ 15. The following officers, namely: sheriffs, clerks of counties, coroners, district attorneys, marshals of cities, the clerk of the court of oyer and terminer and general sessions in New York, the register and clerk of that city, police justices and assistant justices in that city, and their clerks are so far local, as to require the residence of every person holding such office, within the county or city, in which the duties of his office are required by law to be executed.

Sheriffs, &c.

§ 16. Every officer included in the class of administrative officers, shall be confined in the execution of his duties, to the district, county, city, town, or village for which he shall be appointed, except where otherwise provided for by law.

Administrative officers.

A captain of the port of New York;

[L. 1883, ch. 357.]

A harbor master for the port of Albany;

[L. 1837, ch. 356; L. 1866, ch. 374.]

Eleven harbor masters for the port of New York;

[L. 1883, ch. 357.]

Nine wardens of the port of New York, and two special wardens to reside at the quarantine ground.

[L. 1857, ch. 405.]

A health officer of every city, incorporated village and town.

[L. 1885, ch. 270.]

Fifteen wreck-masters, in the county of Suffolk; twelve in the county of Queens; three in the county of Kings; two in the county of Richmond, and two in the county of Westchester.

A county sealer of weights and measures of each county, and a town sealer of weights and measures of each town.

L. 1851, ch. 134.

Not less than three, nor more than five commissioners to inspect turnpike roads, in each county in this state, in which there shall be a turnpike road whose act of incorporation contains no provision for the appointment of special inspectors of such road.

And a receiver of the profits of the state pier at Sag Harbor.

L. 1848, Chap. 75—An act to provide for the appointment of commissioners of deeds, in the cities of this state.

Commissioners how appointed. SECTION 1. Commissioners of deeds in the cities of this state shall be appointed by the common councils of said cities respectively, and all vacancies occurring during the term for which any commissioner shall be appointed, shall be filled in like manner.

L. 1848, Chap. 161—An act in relation to the appointment of commissioners of deeds, in and for the cities of this state, except the city of New York.

Power to appoint commissioners of deeds. SECTION 1. In case the mayor and common council of any city in this state, shall have neglected or omitted to pass any such resolution or resolutions as by the second section of title one, chapter five, of the first part of the Revised Statutes, or by any act of the legislature of this state, they were required or authorized to pass, limiting the number of commissioners of deeds and notaries public to be appointed in and for their respective cities, it shall, notwithstanding such neglect or omission, be lawful for the common council of said cities respectively to appoint as many commissioners of deeds in and for their respective cities, under and by virtue of the act entitled "An act to provide for the appointment of commissioners of deeds in the cities of this state," passed March 7th, 1848, as shall have been determined and limited as the number of commissioners of deeds to be appointed in and for their respective cities, by the last resolution passed by them respectively, in pursuance of the second section, of title one, of chapter five of the first part of the Revised Statutes, or in pursuance of any act of the legislature of this state.

[Section 2 is omitted as temporary.]

Number to be limited. § 3. The common council of the several cities of this state, except the city of New York, shall, on or before the first day of January, in the year one thousand eight hundred and fifty-one, and at the end of every two years thereafter, by resolution of the board, determine and limit the number of commissioners of deeds to be appointed in and for said cities respectively.

43 Barb., 491.

L. 1863, Chap. 508—An act to define and limit the number of notaries public in the several counties in this state, and confer authority to take affidavits and acknowledgments.

Number in counties. SECTION 1. Hereafter no more notaries public shall be appointed in any county in this state, except in the county of Kings, the city of Buffalo, and the city and county of New York, than one for every two thousand of population residing in said county, as shown by the census taken in this state, next preceding any appointment hereafter to be made.

[Section 2 is in Part III, ch. 3, post.]

L. 1864, Chap. 29—An act to limit the term of office of notaries public.

[Sections 1 and 2 are omitted as obsolete.]

Governor authorized to appoint additional notaries. § 3. The governor of this state is hereby authorized to appoint an additional number of notaries public to those now provided by law in each county in this state, including the city of New York, equal to the number of banks located therein, on the application of each bank. [*Thus amended by L. 1880, ch. 160.*]¹

¹ Probably superseded as to New York city by L. 1882, ch. 410, § 1712.

L. 1867, Chap. 420 — An act providing for the appointment of an additional number of notaries public in the city and county of New York, and in the several assembly districts of this state.

SECTION 1. The governor is hereby authorized and empowered, by and with the advice and consent of the senate, to appoint, in and for the city and county of New York, one hundred notaries public, and in each assembly district of the state other than the county of New York, two additional notaries public, in addition to the number now provided by law.¹

L. 1868, Chap. 479.

SECTION 1. The governor is hereby authorized and empowered, by and with the advice and consent of the senate, to appoint in and for the city and county of New York, two hundred notaries public, in addition to the number now provided by law, and five additional for each assembly district in the state.¹

L. 1869, Chap. 317.

SECTION 1. The governor is hereby authorized and empowered, by and with the advice and consent of the senate, to appoint in and for the city of New York, two hundred and fifty notaries public, in addition to the number now provided by law, and five additional in and for each assembly district in the state outside of the city of New York.¹

L. 1870, Chap. 660.

SECTION 1. The governor is hereby authorized and empowered, by and with the advice and consent of the senate, to appoint in and for the city of New York, two hundred and fifty notaries public, in addition to the number now provided by law, and ten additional in and for each assembly district in the state, outside of the city of New York.²

L. 1871, Chap. 167.

SECTION 1. The governor is hereby authorized and empowered, by and with the advice and consent of the senate, to appoint in and for the county of New York, three hundred notaries public, in addition to the number now provided by law.²

L. 1874, Chap. 100.

SECTION 1. The governor is hereby authorized and empowered, by and with the consent of the senate, to appoint in each county, notaries public equal to ten for each assembly district, in addition to the number now provided by law; provided, however, that in each county which is a single assembly district, the additional number of notaries public be fifteen.²

L. 1875, Chap. 87 — An act providing for the appointment of additional notaries public.

Governor may appoint additional notaries public; fees payable to county clerk.
SECTION 1. The governor is hereby authorized and empowered by and with the advice and consent of the senate, to appoint in each county, except the city and county of New York, notaries public equal to twenty for each assembly district, and in said city and county five hundred notaries public in addition to the number now allowed by law; provided, however, that in each county which is a single assembly district the additional number of notaries public shall be thirty. And hereafter at the time of subscribing and filing the oath of office, the county clerk of each

¹ Probably superseded as to New York city by L. 1883, ch. 410, § 1712.

² Probably superseded by L. 1882, ch. 410, § 1712.

county shall collect from each person appointed notary public the fees hereinafter specified, and the county clerk shall not administer or file said oath unless said fees shall have been paid. From each notary public residing in any city having a population of more than fifty thousand and less than three hundred thousand inhabitants, the sum of five dollars; from each notary public residing in any county which has within its boundaries a city having a population of more than three hundred thousand inhabitants, the sum of ten dollars; from each notary public other than as above specified the sum of two and one-half dollars; and the clerk of the city and county of New York, shall collect from each notary public appointed for any other county (except the county of Kings) who shall file his notarial certificate in the clerk's office of said city and county, the sum of seven and one-half dollars. Provided, however, that any notary who shall have been appointed during the recess of the legislature, and who duly qualified under such recess appointment shall not be required to pay any second fee upon qualifying under his next reappointment when confirmed by the senate. [*Thus amended by L. 1886, ch. 359.*]

County clerks to account with state treasurer. § 2. The county clerk of every county shall, on or before the first day of June in each year, pay over to the state treasurer, except as provided herein by section three, all fees collected under and by virtue of this act. [*Thus amended by L. 1886, ch. 230.*]

L. 1886, Chap. 230 — An act to amend chapter two hundred and fifty-four of the laws of eighteen hundred and seventy-nine, entitled "An act to amend chapter eighty-seven of the laws of eighteen hundred and seventy-five, entitled 'An act providing for the appointment of additional notaries public.'"

[Sections 1 and 2, amend L. 1875, ch. 87.]

County clerk may retain certain fees; notarial clerk to be appointed in certain county clerks' offices; his salary. § 3. The county clerk of every county, except where he is a salaried officer, shall be entitled to retain from the amount so collected the sum of fifty cents for each notary public who shall duly qualify, as compensation for notifying such notaries public of their appointment to office (which notice in every county of the state shall be transmitted in a sealed envelope, bearing the printed address of the county clerk), for administering the oath of office, for giving notice to the governor of such notaries as have taken the oath of office, and for giving notice of such notaries as have neglected to take the oath of office, and for giving notice of vacancies created for any cause in such office. In counties where the office of county clerk is a salaried office, except in counties having over one hundred and fifty thousand inhabitants, a like sum shall be retained for like services, which sum shall be paid by the county clerk to the officer to whom it is provided that fees of the county clerk shall be paid. In counties having over one hundred and fifty thousand inhabitants where the office of county clerk is a salaried office, the county clerk shall appoint an officer to be known as notarial clerk whose duties shall be to enter the names of notaries appointed in the book kept for that purpose, to make out certificates of appointments, and to discharge such other duties connected with the notarial department of the county clerk's office and such other duties as the county clerk or his deputy may designate. Said notarial clerk shall receive a salary at the rate of fifteen hundred dollars per annum, to be deducted by the county clerk out of the moneys directed to be paid over to the state treasurer by section two of this act, and be paid to said notarial clerk in equal monthly instalments. [*Thus amended by L. 1887, ch. 516.*]

Repeal. § 4. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

L. 1876, Chap. 130 — An act to provide for an additional number of notaries public.

Governor may appoint. SECTION 1. The governor is hereby authorized and empowered, by and with the advice and consent of the senate, to appoint in each

county, except the city and county of New York, notaries public equal to ten for each assembly district, and in the said city and county two hundred and fifty notaries public, in addition to the number now allowed by law; provided, however, that in each county which is a single assembly district, the additional number of notaries public be fifteen.

L. 1884, Chap. 66 — An act to provide for the appointment of an additional number of notaries public in the county of Westchester.

Additional notaries for Westchester county. SECTION 1. The governor is hereby authorized and empowered, by and with the advice and consent of the senate, to appoint in and for the county of Westchester, thirty notaries public in addition to the number now provided by law.

L. 1882, Chap. 216 — An act in relation to the examination and admission to the bar of law students in certain cases.

Who may be admitted to practice. SECTION 1. Any male citizen of the United States twenty-one years of age, and of good moral character, who shall have graduated with the degree of bachelor of laws from any duly organized law school or law department of any university or college within this state prior to the first day of July, one thousand eight hundred and eighty-two, or who has been prevented from passing the examination preliminary to graduation with the degree of bachelor of laws in any duly organized law school or law department of any university within this state, by reason of his necessary absence from such university while a member of the legislature, shall on passing a satisfactory examination, as hereinafter provided, be entitled to admission to the bar of this state as attorney and counsellor at law, and licensed and authorized to practice as such in all the courts of the state.

Court to direct examination and admit to practice. § 2. On application of any such person to the supreme court at a general term thereof for examination and admission to the bar, and if he be a graduate, on production of his diploma or certificate of graduation, the court shall direct his examination by the standing committee on the examination of applicants for admission to the bar, or by such other committee as the court may appoint for such purpose, and shall make an order admitting to the bar of this state as attorney and counsellor at law any such applicant as shall have passed a satisfactory examination.

L. 1883, Chap. 522 — An act in relation to the examination and admission to the bar in certain cases.

Any person having served a full term as surrogate may be admitted to the bar. SECTION 1. Any male citizen of this state of good moral character who shall have served a full term as surrogate of any county of this state shall on passing a satisfactory examination as hereinafter provided be entitled to admission to the bar of this state as attorney and counsellor at law, and licensed and authorized to practice as such in all the courts of the state.

Upon presentation of proof court to direct examination, etc. § 2. On application of any such person to the supreme court at a general term thereof, for examination and admission to the bar and the production of a certificate from the clerk of the county wherein such person has served as surrogate, showing that such person has served a full term as surrogate, or upon other satisfactory proof of such facts the court shall direct his examination by the standing committee on the examination of applicants for admission to the bar, or by such other committee as the court may appoint for such purpose, and shall make an order admitting to the bar of the state as attorney and counsellor at law any such applicants who shall have passed a satisfactory examination.

TITLE I.

TITLE II.

Of Legislative Officers.

- Sec. 1.** Senators and members of assembly for what term chosen.
2. How chosen.
3. Qualifications of senators; proceedings when two or more are chosen to ascertain their terms of service.
4. Members of the legislature ineligible to certain civil appointments.
5. Persons holding offices under United States, ineligible to seat in legislature. If members of legislature accept offices under United States, their seats vacated.
6. Repealed.
7. Members of legislature not to be appointed to certain offices by the governor.
8. When senate to choose a temporary president.
9. When president of the senate to act as governor.

Senators,
&c., term
of office.

SECTION 1. Senators and members of assembly are chosen by the people; senators for four years, members of assembly annually.

[Modified by Const., art. III, § 2.]

How
chosen.

§ 2. Senators are chosen by districts; members of assembly by counties. One senator must be chosen annually in each senate district, and at least one member of the assembly in each county of the state, separately organized.

[Modified by Const., art. III, §§ 3 and 5.]

Qualifica-
tions of
senators,
&c.

[103]

§ 3. Senators must be freeholders; and whenever two or more senators shall be chosen at any election, one or more of whom shall be chosen to supply a vacancy, and one for the regular term, it shall be determined by lot, in such manner as the senate shall direct, which of them shall be considered as elected for the longest term, without regarding any designation upon the ballots given for the persons so chosen.

[Abolished by the Const.]

Ineligible
to certain
offices.

§ 4. No member of the legislature can receive any civil appointment from the governor and senate, or from the legislature, during the term for which he shall have been elected.

[Modified by Const., art. III, § 7.]

United
States off-
icers.

§ 5. No person, being a member of congress, or holding any judicial or military office under the United States, can hold a seat in the legislature. If any person shall, while a member of the legislature, be elected to congress, or be appointed to any office civil or military under the government of the United States, his acceptance thereof shall vacate his seat in the legislature.

[Modified by Const., art. III, § 8.]

[Section 6 was repealed by L. 1851, ch. 34.]

Further
ineligibility
to office.

§ 7. No person elected to either branch of the legislature, shall be appointed by the governor to any office, during the term for which such person shall have been elected; but this prohibition shall not extend to those officers whose appointment is, by the Constitution, vested in the governor.

[Superseded by Const., art. III, § 7.]

§ 8. Whenever the lieutenant-governor shall act as governor, or shall not attend the senate, that house shall choose a temporary president from its own body, to serve until the lieutenant-governor shall return to preside therein.

[See Const., art. III, § 10.]

TITLE 3.
Temporary president of the senate, when to be chosen.

§ 9. If during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the senate, so chosen, shall act as governor, until the vacancy shall be filled, or the disability shall cease; and the senate shall choose from its own body, another person to preside therein.

[See Const., art. IV, § 7

When to act as governor.

TITLE III.

Of Executive Officers.

- SEC. 1. Governor and lieutenant-governor when to be chosen.
- 2. Proceedings when two or more candidates receive an equal number of votes for governor.
- 3. The like as to candidates for lieutenant-governor.
- 4. Qualifications required for governor.
- 5 & 6. Secretary of state, comptroller, attorney-general, and surveyor-general, how and when appointed.
- 7. Tenure of their offices.
- 8. Treasurer how and when appointed.
- 9. Nominations of state officers when to be made.
- 10. Proceedings thereupon in case the nominations agree.
- 11. Proceedings in case they disagree.
- 12. State printer, how appointed, and tenure of his office.
- 13. Governor's private secretary and door-keeper of executive chamber, how appointed.

[104]

SECTION 1. A governor and lieutenant-governor shall be chosen at each biennial general election, from and after the general election in November, one thousand eight hundred and twenty-two.

Governor and lieutenant-governor

[Modified by Const., art. IV, § 1, whereby the term of office is three years, beginning January 1, 1877.]

§ 2. In case two or more persons receive an equal and the highest number of votes for governor, at any election, it shall be the duty of the board of state canvassers to lay before the legislature, on the first day of its next session after such election, a certified statement of the votes canvassed by them; and the two houses shall immediately proceed to choose, by joint ballot, one of those persons having such equal number of votes, to be governor.

Equality of votes for governor.

[See Const., art. IV, § 3.]

§ 3. In case two or more persons shall receive an equal and the highest number of votes for lieutenant-governor, a statement of the canvass of such votes shall in like manner be laid before the legislature; and the two houses shall proceed in the same manner to choose by joint ballot, one of those persons having such equal number of votes, to be lieutenant-governor.

The like for lieutenant-governor.

[The same.]

- TITLE 3.** § 4. No person is eligible to the office of governor, unless he shall be,
Qualifications of governor.
1. A native citizen of the United States;
 2. A freeholder;
 3. Thirty years of age;
 4. And shall have been five years a resident within this state, unless he shall have been absent during that time, on public business of the United States or of this state.
 [Modified by Const., art. III, § 7.]
- State officers, how appointed.** § 5. The secretary of state, the comptroller, the attorney-general, and the surveyor-general, are appointed by the legislature, as follows: The senate and assembly each openly nominate one person for each of those offices respectively, or for such of them as are then to be filled; after which, they meet together; if the nominations are found to agree, the person nominated is declared to be appointed; if the nominations do not agree, the appointment is then made by the joint ballot of the senators and members of assembly.
 [Abrogated by Const., art. V, §§ 1 and 2.]
- And when.** § 6. Such appointment shall be made once in every three years, from and after the first Monday of February, in the year one thousand eight hundred and twenty-three; or as often as vacancies shall occur.
 [105] [The same.]
- Tenure of their offices.** § 7. The persons so appointed, hold their offices for three years, unless sooner removed by a concurrent resolution of the senate and assembly.
 [The same.]
- Treasurer.** § 8. The treasurer is appointed by the legislature in the same manner, and such appointment is made annually.
 [The same.]
- Nominations of state officers.** § 9. The senate and assembly shall proceed to nominate each of the several state officers above named, on the first Monday of February in each year, during which his term of office shall expire. If an appointment shall be necessary to supply an existing vacancy, they shall fix, by concurrent resolution, the day on which they will proceed to nominate for such appointment.
 [The same.]
- Proceedings in case they agree.** § 10. If, on the comparison of such nominations they be found to agree, the president of the senate shall declare such agreement, and that the persons so nominated are chosen. Copies of the resolutions of the two houses by which such nominations were made, shall be certified by the respective presiding officers thereof, and attested by their clerks; which shall be delivered to the person appointed, and shall be evidence of his appointment.
 [The same.]
- In case they disagree.** § 11. If the nominations disagree, and the officer be chosen by a joint ballot, the result of such ballot shall be certified by the presiding officers of the two houses, and attested by the clerks

thereof; which certificate shall be delivered to the person so chosen, TITLE 4.
and shall be evidence of his appointment.

[The same]

§ 12. The state printer shall be appointed by law, and shall hold his office during the pleasure of the legislature. State printer.

[Office abrogated by L, 1846, ch. 24, § 9. See ch. 7, *post.*]

§ 13. The private secretary of the governor, and the door-keeper of the executive chamber, shall be appointed by the governor, and hold their respective offices during his pleasure. Governor's private secretary, &c.

TITLE IV.

Of Judicial Officers.

- ART. 1.—Of judicial officers appointed by the governor and senate.
2.—Of judicial officers appointed by courts of justice.
3.—Of judicial officers appointed by the local authorities of a county or city.
4.—Of judicial officers elected by the people.

ARTICLE FIRST.

[106, 107]

OF JUDICIAL OFFICERS APPOINTED BY THE GOVERNOR AND SENATE.

[This entire article was repealed by L. 1880, ch. 245.]

ARTICLE SECOND.

OF JUDICIAL OFFICERS APPOINTED BY COURTS OF JUSTICE.

SEC. 13. Repealed.

14. Other clerks of courts, how appointed; clerk of mayor's court in Hudson to be clerk of the city.
15. District attorneys, how appointed; must be counsellors.
16-28. Repealed.

[Sec. 13 repealed by L. 1880, ch. 245.]

[108]

§ 14. Clerks of courts, except those whose appointment is otherwise provided for, are appointed by the courts of which they respectively are clerks. The clerk of the mayor's court of the city of Hudson shall, by virtue of his office, be clerk of said city. Other clerks of courts.

§ 15. District-attorneys are appointed by the judges of the county courts of the respective counties. No person shall be appointed a district-attorney, unless he be at the time a counsellor at law of the supreme court; but if there be no such counsellor residing in the county District-attorneys, how appointed.

TITLE 4. or none willing to accept the office, an attorney at law may be appointed.

[L. 1818, p. 306, § 4; L. 1824, p. 314, § 2.]
[Sections 16 to 28 repealed by L. 1880, ch. 245.]

ARTICLE THIRD.

OF JUDICIAL OFFICERS APPOINTED BY THE LOCAL AUTHORITIES OF A COUNTY OR CITY.

[109-110] [This entire article was repealed by L. 1880, ch. 245.]

ARTICLE FOURTH.

OF JUDICIAL OFFICERS ELECTED BY THE PEOPLE.

- SEC. 35. Four justices to be elected in each town; tenure of their offices.
36. Not to be removed unless notice shall have been given, etc.
37. When a new town is erected, how justices to be elected.
38. Justices residing in such new town to be deemed justices thereof.
39. Supervisor of such town to give notice of meeting to determine the classes of justices elected therein.
40. Classes to be determined by drawing.
41. How to be determined in case less than four be elected.
42. If any justice neglects to attend, supervisor to draw for him. If supervisor be absent, etc., town clerk to act for him.
43. Certificates of drawing and of result, to be made, filed and recorded.
44. If by erecting or altering a town there be more than four justices therein, all to act.
45. If by such erection or alteration, a town be deprived of one or more justices, their places to be supplied.
46. Proceedings when two or more justices are elected, to ascertain their terms.
47. Sheriffs, clerks of counties, and register and clerk of New York how chosen.
48. Sheriffs can hold no other office, and can not be re-elected at expiration of their office.
49. Coroners when and how to be elected.
50. Sheriffs, clerks and coroners in new counties, when to be chosen.

Justices in towns. 6 Cow., 645. [111] § 35. There shall be four justices of the peace in each town, divided into four classes, one of whom shall be annually elected in the manner prescribed in chapter sixth of this act. Each justice hereafter chosen, shall hold his office for four years, except when elected to fill a vacancy, or on the erection of a new town as herein-after prescribed; and may be removed by the judges of the county courts.

[By special statutes, some of the towns are allowed a different number of justices of the peace.]

Removal from office. § 36. No justice of the peace can be removed until he shall have notice of the charges made against him, nor until an opportunity be given him of being heard in his defence. The causes of such removal shall be assigned by the judges in writing, and be filed with the clerk of the court.

Justices in new towns. § 37. Whenever a new town shall be erected, an election of justices therein shall be held at the next general election thereafter, unless a special election shall be directed by law.

§ 38. If there be one or more justices then residing in such new town, they shall be deemed justices thereof, and shall hold their offices according to their respective classes; and only so many justices shall be chosen as shall be necessary to complete the number of four for such town.

ART. 4.

Ib.,
21 Wend.,
568.

§ 39. After the election of justices in such new town, the supervisor thereof shall, within six days after the completion of the canvass by the county canvassers, give notice in writing, to the justices elected and to the town clerk, of the time and place where he will meet them, to determine by lot the classes of such justices; which notices shall be served at least six days, and not more than twelve, previous to the time appointed therein for such meeting.

Ib., notice
of meeting
to deter-
mine
classes.

§ 40. At the time and place so appointed, the supervisor and town clerk shall cause to be written on separate pieces of paper, as near alike as may be, the numbers one, two, three, four, if there shall have been four justices elected, and shall cause them to be rolled up as nearly alike as may be, and deposited in a box. The persons elected justices shall severally draw one of the said pieces of paper, and shall be classed according to the number written on the paper so drawn by him, and shall hold his office for such number of years, either one, two, three, or four, as shall correspond with such number so drawn.

Ib., classes,
how deter-
mined

§ 41. If less than four justices shall have been chosen, then ballots shall be prepared as above directed, with numbers written thereon, to correspond with the numbers of the classes which shall be vacant, and each person elected shall, in like manner, proceed to draw one of the said ballots, and shall be classed according to the number so written on the ballot drawn by him, and shall hold his office according to such number.

Ib.

§ 42. If any person elected a justice shall neglect to attend to such drawing, the supervisor shall draw for him. If the supervisor be absent from his town, or unable to serve, or his office be vacant, the town clerk shall give the notice herein required, and perform the duties enjoined on such supervisor.

Ib., neglect
to attend,
&c.
[112]

§ 43. Duplicate certificates of such drawing, and of the result thereof, shall be made, and certified by the supervisor and town clerk, or such one of them as shall attend the same, one of which shall be filed with the town clerk and the other with the county clerk, and shall be recorded by the said clerks in the books in which the canvasses of votes shall have been recorded; and shall be conclusive evidence of the respective classes to which the persons so elected justices belong.

Certificates
of draw-
ing.

§ 44. If, by the erection of a new town or the annexing of a part of one town to another, there should at any time be more than four justices residing in any town, they shall, notwithstanding, hold and exercise their offices in the town in which they reside, according to their classes respectively. But on the expiration of the term of

When
more than
four jus-
tices may
hold their
offices.

TITLE 4. office of two or more justices, being in the same class, only one person shall be elected to fill the vacancy in such class.

Proceed-
ings when
number
reduced.

§ 45. Whenever, by the erection of a new town or the annexing of part of one town to another, any town shall be deprived of one or more justices, by their residence being within the part set off, the inhabitants of such town shall, at the next general election, supply the vacancy so produced in the classes to which such justices may belong: and if two or more justices be elected, the same proceedings shall be had, as before directed, to determine their respective classes.

Proceed-
ings when
elected for
unequal
terms.

§ 46. Whenever there shall be two or more justices chosen at any election, one or more of whom shall be chosen to supply a vacancy, and one for the regular term, the class to which each justice shall belong, and the term for which he shall serve, shall be determined by lot, in the presence of the supervisor and town clerk, within the time and in the manner herein before directed; the same notice shall be given, the same proceedings had, and the result certified with the like effect as before declared.

Sheriffs,
etc.

§ 47. Sheriffs and clerks of counties, and the register and clerk of the city and county of New York, are chosen by the electors in the respective counties, once in every three years, and as often as vacancies occur.

[Superseded by Const., art. X, § 1.]

Disabilities
of sheriffs.

§ 48. Sheriffs can hold no other office, and are ineligible to the same office, for the next three years, after the termination of their offices.

[The same.]

Coroners.

(113)

§ 49. One coroner in the city and county of New York, and four in every other county in the state, shall be elected in the same manner and at the same general election as sheriffs, hold their offices for the same term, and be removable in like manner.

[The same.]

Sheriffs
in new
counties.

§ 50. The sheriffs, clerks and coroners first chosen in every county that may hereafter be erected, shall be elected at the general election next succeeding the erection of the county, or at such other time as the legislature shall direct.

[Since the enactment of the R. S., the class of "judicial officers elected by the people," has been extended so as to embrace the judges of all the courts, from the highest to the lowest. The provisions regulating the election of those officers will be found in chapter 6, *post.*]

L. 1869, Chap. 448 — An act to regulate the term of office of notaries public.

Terms of appointees of 1868; *id.*, 1869; *id.*, after 1869; terms of persons appointed to fill vacancies. SECTION 1. All notaries public who were appointed at any time during the year eighteen hundred and sixty-eight by the governor, with the consent of the senate, shall hold office until and including the thirtieth day of March, eighteen hundred and seventy, and no longer. All notaries public who have been or shall be appointed at any time during the year eighteen hundred and sixty-nine by the governor, with the consent of the senate, shall hold office until and including the thirtieth day of March, eighteen hundred and seventy-one, and no longer. All notaries public who shall be appointed after the year eighteen hundred and sixty-nine by the governor, with the consent of the senate, shall hold office for two years from and after the thirtieth day of March of the year in which they shall be appointed; provided, that every notary public hereafter appointed by the governor, with the consent of the senate, to fill a vacancy occurring by death, resignation, change of residence or removal, shall hold office from the time of his appointment for the unexpired term of the person in whose stead he is appointed, and no longer. And all notaries public appointed by the governor, during the recess of the senate, except those appointed to fill vacancies occurring by death, resignation, change of residence or removal, shall, if their appointment be subsequently confirmed by the senate, hold office from the time of their original appointment until the thirtieth day of March in the year next after the year in which their appointment shall be confirmed by the senate. [*Thus amended by L. 1871, ch. 3.*]

Repeal. § 2. All acts or parts of acts inconsistent with the provisions of this act, are hereby repealed.

L. 1885, Chap. 63 — An act to legalize and confirm the official acts of notaries public.

Official acts legalized. SECTION 1. The official acts of every person as notary public within the state of New York heretofore commissioned as such, which acts have been performed since the thirtieth day of March, eighteen hundred and eighty-four, so far as such acts might be affected, questioned or impaired by reason of change of residence made after appointment, or by reason of misnomer or misspelling of name or other error made in the appointment or commission of said notary public, or by reason of omission or failure to take the prescribed oath of office within the time required by law, or by reason of such person being under the age of twenty-one years, or by reason of the expiration of his term of office where he has continued to act in good faith, are hereby legalized and confirmed, and made as effectual and valid as if the term of office of said notary public had not expired, or as if no misnomer or misspelling or other error had occurred, or been made in the appointment or commission of said notary public, or as if the oath of office had been taken within the time prescribed by law.

§ 2. Nothing in this act contained shall affect any legal action or proceeding now pending.

L. 1886, Chap. 448 — An act to legalize and confirm the official acts of notaries public.

Official acts of certain notaries public legalized. SECTION 1. The official acts of every person as notary public within the state of New York heretofore commissioned as

such, which acts have been performed since the thirtieth day of March, eighteen hundred and eighty-five, so far as such acts might be affected, impaired or questioned by reason of change of residence made after appointment, or by reason of misnomer or misspelling of name, or other error made in the appointment or commission of said notary public, or by reason of omission or failure to take the prescribed oath of office within the time required by law, or by reason of such person being under the age of twenty-one years, or by reason of the expiration of his term of office, where he has acted in good faith, are hereby legalized and confirmed, and made as effectual and valid as if the term of office of said notary public had not expired, or as if no misnomer or misspelling or other error had occurred, or been made in the appointment or commission of said notary public, or as if the oath of office had been taken within the time prescribed by law.

The same. § 2. The official acts of every person as notary public within the state of New York, duly commissioned as such, performed in an adjoining county to the one in and for which he was appointed, and which acts were performed prior to the filing of a certified copy of his appointment with the certificate of the clerk of his county that he has duly qualified, together with his autograph signature, in the office of the clerk of said adjoining county, as provided in chapter sixty-one, laws of eighteen hundred and eighty-five; and who has filed or shall file such certificate of appointment, qualification and autograph signature in said adjoining county as provided in and by chapter sixty-one of the laws of eighteen hundred and eighty-five, are hereby legalized, confirmed and made valid, the same as if performed after the filing of such certificate of appointment, qualification and autograph signature.

Proviso. § 3. Nothing in this act contained shall affect any legal action or proceeding now pending.

[For other recent statutes legalizing the acts of notaries public, see L. 1881, chs. 44, 533; L. 1882, ch. 16; L. 1883, chs. 29, 230; L. 1884, ch. 304.]

L. 1881, Chap. 62 — An act relative to the continuance of compensation to judges and justices of courts in certain cases, after removal pursuant to the provisions of the constitution.

Judges' pensions. SECTION 1. Any judge or justice of any court who shall be removed pursuant to section eleven of article six of the constitution, for any cause not involving moral delinquency, shall continue to receive, until the expiration of the term for which he was elected, a sum equal to one-half of the salary of his office as fixed by law at the time of such removal, to be paid to him at the same times and in the same manner as said salary was payable when he was so removed.

Previous section qualified. § 2. If said sum would exceed three thousand dollars, no greater sum shall be annually paid said judge or justice than three thousand dollars. The payment of any sum pursuant to the provisions of this act shall cease at the death of such judge or justice notwithstanding the term for which he was elected shall not then have expired. No person shall be entitled to the benefit of this act, unless the resolution of removal shall state that he is removed for a cause not involving moral delinquency, and shall recommend the continuance of such compensation.

TITLE V.

Of Administrative Officers.

- Sec. 1. Who commissioners of land-office.
 2. Who commissioners of the canal fund.
 3. Repealed.
 4. Vacancies in the office of canal commissioner how to be supplied.
 5. Canal board of whom to consist.
 6. Superintendents of canal repairs, how appointed and removed.
 7. Collectors of canal tolls how appointed; tenure of their offices.
 8. Comptroller may remove, and may make temporary appointments.
 9. Canal appraisers how appointed; not to act when interested.
 10. Who trustees of state library.
 11. Secretary of state to be superintendent of common schools and state sealer.
 12. Mayors of cities how appointed, and when.
 13. County treasurers how appointed; tenure of their offices. Certain officers ineligible.
 14. County sealers how appointed; tenure of their offices.
 15. Commissioners of loans and various officers, to be appointed by governor and senate.
 16. Tenure of their offices.
 17. Repealed.
 18. Vacancies in office of commissioners of health, may be supplied by board of health.
 19. Loan-officers, how appointed and tenure of their offices.
 20. Inspectors of hops, etc., to be appointed by governor; tenure of their offices.

SECTION 1. The lieutenant-governor, the speaker of the assembly, secretary of state, the attorney-general, the surveyor-general, the comptroller, and the treasurer, are by right of office, and shall continue to be, commissioners of the land-office. Com-
missioners of
land office.

[1 R. L., 292, § 1; L. 1815, p. 10, § 5. Modified so as to add the state engineer and surveyor, by Const., art. V, § 5.]

§ 2. All the officers mentioned in the preceding section, except the speaker of the assembly, by right of office, are, and shall continue to be, commissioners of the canal fund; but they cannot act as a board unless the comptroller shall be present. Com-
missioners of
canal fund.

[L. 1817, p. 301, § 1. See Const., art. V, § 5.]
 [Section 3 was repealed by L. 1844, ch. 280, § 7.]

§ 4. If a vacancy shall occur in the office of canal commissioner, during a recess of the legislature, it shall be supplied by the appointment of the governor; but the powers of the officer appointed shall cease at the next meeting of the legislature. Ib.

[L. 1817, p. 302, § 2. The office of canal commissioner abolished, Const., art. V, § 3.]

§ 5. The canal board shall consist of the canal commissioners, and the commissioners of the canal fund. [114]
Canal
board.
26 Wend.,
640.

[L. 1826, p. 360, § 4. Modified, Const., art. V, § 5]

§ 6. Superintendents of canal repairs shall be appointed by the canal board. Either of the acting canal commissioners may remove any of the said superintendents, and fill the vacancy occasioned by Superin-
tendents of
canal re-
pairs.
38 N. Y. 886.

- TITLE 5.** such removal, by an appointment to continue until the next meeting of the canal board.
[L. 1826, p. 360, §§ 1 and 3; L. 1827, p. 223, § 13. Modified, Const., art. V, § 3.]
- Collectors of canal tolls.** § 7. Collectors of canal tolls shall be appointed by the canal board, and shall hold their offices for one year, but may be removed at any time by such board.
[Office abolished, L. 1883, ch. 165.]
- ib.** § 8. The comptroller shall also have power to remove any of the said collectors, at his pleasure, and to fill the vacancy occasioned by such removal, until the next meeting of the canal board.
[See note to the last section.]
- Canal appraisers.** § 9. The canal appraisers shall be nominated by the governor, and appointed by him, with the consent of the senate. No person shall act as appraiser in any case in which he shall be either directly or indirectly interested.
[Office abolished, L. 1883, ch. 205.]
- Trustees of state library.** § 10. The governor, lieutenant-governor, the secretary of state, the attorney-general, and the comptroller, by right of office, are, and shall continue, trustees of the state library.
[L. 1824, p. 302, § 22. Abrogated by L. 1844, ch. 255.]
- Superintendent of common schools and state sealer.** § 11. The secretary of state, by right of office, is and shall be superintendent of common schools, and state sealer of weights and measures.
[L. 1821, p. 249, § 2; 1 R. L., p. 376, § 2. Abrogated by L. 1864, ch. 555, in ch. 15, *post*, and L. 1851, ch. 134, in ch. 19, *post*.]
- Mayor of cities.** § 12. The mayors of the respective cities in the state are appointed annually by the common councils of the respective cities.
[Abrogated by L. 1840, ch. 21.]
- County treasurer.** § 13. The board of supervisors of each county shall appoint some reputable freeholder of the same county to be the treasurer thereof, who shall hold his office during the pleasure of the board appointing him. No supervisor, or clerk of the board of supervisors, shall be appointed to, or hold, the office of county treasurer.
[1 R. L., p. 138, § 4. Abrogated by L. 1848, ch. 136.]
- County sealers.** § 14. County sealers of weights and measures shall be appointed, each by the board of supervisors of the county for which he shall be appointed, and shall hold their offices during the pleasure of the board appointing them.
[1 R. L., p. 376, § 2. See L. 1851, ch. 134, § 20, in ch. 19, *post*.]
- Commissioners of loans, and other off.** § 15. Commissioners for loaning moneys under the act entitled "An act authorising a loan of moneys to the citizens of this state," passed April 11, 1808; loan officers of the county of Putnam;

inspectors of state prisons; superintendents of the salt springs; inspectors of salt in the county of Onondaga; harbor-masters; wardens and branch pilots of the port of New York; auctioneers; inspectors of flour, of leather, of beef and pork, of distilled spirits; of lumber, flax-seed, and of pot and pearl ashes; the inspector of leaf tobacco in the city and county of New York; the inspector-generals of staves and heading; cullers of staves and heading; weigher at the quarantine ground on Staten Island; health officer; resident physician and health commissioner of the city of New York; the president of the village of Utica; the agent of the Onondaga tribe of Indians; superintendents of the Brothertown Indians; the attorney of the Oneida Indians; and such bank directors as the state may be authorised to appoint, shall be nominated by the governor, and appointed by him with the consent of the senate.

TITLE 5.
 cers, how
 appointed.
 (115)

[L. 1822, p. 159; L. 1823, p. 64, § 1; p. 81, § 46; L. 1825, p. 80; p. 232, § 1; p. 443, § 1; L. 1828, ch. 274, § 1. Most of these offices have been abolished. See note to tit. 1.]

§ 16. The officers enumerated in the last section, shall hold their respective offices for two years, except superintendents of salt springs, inspectors of salt in the county of Onondaga, inspector of leaf tobacco in New York, auctioneers, and bank directors, who shall hold their offices for one year.

Tenure of
 their off-
 ces.

[See note to last section.]

[Sec. 17 was repealed by L. 1856, ch. 147, and again by L. 1881, ch. 537.]

§ 18. The board of health may supply any vacancy, that may occur in the office of either of the commissioners of health of the city of New York, whether arising from the temporary inability of the officer to discharge his duties, or otherwise; but the person so appointed shall hold his office only until such inability be removed, or the sense of the governor, or of the governor and senate be declared.

Health offi-
 cers of
 New-York.

[L. 1823, p. 64, § 1. See ch. 14, *post*.]

§ 19. Loan officers under the act entitled "An act for loaning monies belonging to this state," passed the 14th day of March, 1792, shall be appointed and removed, by the votes of at least two-thirds of the board of supervisors of their respective counties, at their pleasure.

Loan
 offices.

[L. 1821, p. 69, § 8.]

§ 20. Inspectors of hops, of fish, of oil; wreck masters; inspectors of turnpikes; health officers of the cities of Albany and Hudson; the peace makers of the Brothertown Indians; and the receiver of the profits of the state pier at Sagg Harbor, shall be appointed by the governor, and severally hold their offices for the term of two years.

Inspectors
 of hops,
 &c.

[L. 1823, p. 81, § 46; p. 244, § 2; L. 1825, p. 231. Inspectors' offices abolished, Const., art. V, § 8.]

L. 1881, Chap. 377—An act to provide for the appointment of a state entomologist, and fixing his compensation.

State entomologist to be appointed. SECTION 1. There shall be appointed by the governor, a state entomologist, who shall be charged with the study of insects injurious to agriculture, and of methods of controlling and preventing their depre-dations.

Salary and duties. § 2. The salary of the entomologist shall be two thousand dollars, and he shall render an annual report of his labors and investigations to the legislature, and shall arrange, for the state museum of natural history, a collection of insects taken in the course of his investigations.

TITLE 6.

[116]

TITLE VI.

General provisions applicable to all the Civil Officers of this state or to certain classes of them.

- ART. 1.—General provisions respecting the appointment of officers, their qualifica-tions, the commencement and duration of their offices.
 ART. 2.—Of nominations to offices, and the commissions of officers.
 ART. 3.—Of the oath of office, and the official bond.
 ART. 4.—Of resignations, vacancies and removals, and the means of supplying them.
 ART. 5.—Proceedings to compel the delivery of books and papers by public officers to their successors.

ARTICLE FIRST.

GENERAL PROVISIONS RESPECTING THE APPOINTMENT OF OFFICERS, THEIR QUALIFICA-TIONS, THE COMMENCEMENT AND DURATION OF THEIR OFFICES.

- SEC. 1. No person can hold an office unless twenty-one years of age and a citizen.
 2. Members of common councils, of cities ineligible to certain offices in gift of such councils.
 3. When officers to enter on their duties.
 4. Officers whose appointment is not otherwise provided for, to be appointed by governor and senate.
 5. Assistants and deputies how to be appointed.
 6. Their number how limited.
 7. Their powers during a vacancy, etc.
 8. Offices, when duration is not specially provided for, to be held during pleasure of appointing power.
 9. Certain officers to act until their successors are qualified.
 10. Sheriffs and clerks of counties to act in like manner.

General disabilities. 23 Wend., 8; 3 Wend., 438; 76 N. Y., 220; 27 Hun, 520; 6 Abb. N. C., 181.
 Members of common council, when eligi-ble.

SECTION 1. No person shall be capable of holding a civil office, who, at the time of his election or appointment, shall not have attained the age of twenty-one years, and who shall not then be a citizen of this state.

§ 2. No person elected to the common council of any of the cities in this state, shall, during the term for which he shall have been elected, be appointed to any office of profit in the gift of such com-mon council; but this prohibition shall not extend to any officers whose appointment is, by the Constitution, vested in the common council of any city.

§ 3. All officers elected by the people, unless they shall be elected to supply vacancies then existing, shall enter on the duties of their respective offices on the first day of January following the election at which they shall be chosen.

ART. 2.
Commencement of office.

§ 4. Every officer, the mode of whose appointment is not prescribed by the Constitution, or is not, or shall not be prescribed by law, shall be nominated by the governor, and appointed by him, with the consent of the senate.

Appointing power.

§ 5. All assistants, deputies and other subordinate officers of every description, whose appointment is not, or shall not be specially provided for, shall be appointed by the body, board or officer, to which or to whom, they shall be respectively subordinate.

Deputies, &c., by whom to be appointed. [117]

§ 6. When the number of such subordinate officers is not or shall not be directed by law, it shall be limited at the discretion of the appointing power.

Their number.

§ 7. In all cases not otherwise provided for, each deputy shall possess the powers, and perform the duties attached by law to the office of his principal, during a vacancy in such office, and during the absence of his principal.

Their powers. 1 How. Pr. R. 100; 3 N. Y. S. C. R. (T. & C.), 169.

§ 8. Every office of which the duration is not prescribed by the Constitution, or is not, or shall not be declared by law, shall be held during the pleasure of the authority making the appointment.

Duration of certain offices.

§ 9. Every officer duly appointed, except the chancellor, justices of the supreme court, and circuit judges, who shall have duly entered on the duties of his office, shall continue to discharge the duties thereof, although his term of office shall have expired, until a successor in such office shall be duly qualified.

Officers to hold over 9 Pal., 509; 32 N. Y., 355, 361; 2 Barb., 540; 1 How. Pr. R., 102; 24 Vind., 215; 84 Hun, 408.

[L. of 1824, 380.]

§ 10. Sheriffs and clerks of counties, including the register and clerk of the city and county of New York, shall in like manner continue to discharge the duties of their offices until their respective successors shall be duly qualified.

Ib.

[1 R. L., 420, § 4.]

ARTICLE SECOND.

OF NOMINATIONS TO OFFICES AND THE COMMISSIONS OF OFFICERS.

- SEC. 11. Nominations of governor to senate, how made.
- 12. When senate concur in nomination or removal, clerk to deliver certified copies.
- 13. When an officer is removed by the legislature, certified copy of resolution to be delivered.
- 14. Commissions of civil officers, how made out.
- 15. Commissions and supersedeas, how forwarded.
- 16. When governor shall so direct, messengers to be sent, and notice to be published.
- 17. Certificates of board of canvassers to be evidence of election.
- 18. Certificate of his appointment to be delivered to each commissioner of deeds.
- 19. Other officers, how commissioned.

§ 11. All nominations made by the governor to the senate, shall be in writing. Except in the nomination of a chancellor, chief justice,

Nominations to be written, &c.

- TITLE 6.** or justice of the supreme court, he shall designate the district, county, city, or place for which the officers nominated are intended to be appointed and the place of residence of the candidate nominated.
- Resolution of concurrence.** § 12. Whenever any person nominated by the governor shall have been appointed by the senate to any civil office, or any officer shall be removed by the senate on the recommendation of the governor, it shall be the duty of the clerk of the senate immediately to deliver a copy of the resolution of concurrence in such nomination or recommendation, certified by the president and the clerk of the senate, to the secretary of state, and another copy certified by the clerk, to the governor.
- [118]**
- Resolution of removal.** § 13. Whenever any officer, whose nomination is vested in the governor, shall be removed by a joint resolution of the two houses of the legislature, it shall be the duty of the clerk of the house in which such resolution originated, immediately to deliver a certified copy thereof to the governor.
- Commissions, how made out.** § 14. The commissions of all civil officers appointed by the governor and senate, or by the governor, shall be signed by the governor, and attested by the secretary of state, under the seal of this state, and shall be recorded by the secretary.
- [L. 1873, ch. 85, § 1. The private secretary of the governor is hereby authorized to sign, in his behalf, commissions issued to notaries public. All such commissions, so signed, shall have the same force and effect as if signed by the governor.]
- How forwarded.** § 15. When any such appointment shall be made, or any person shall be superseded in office, the secretary of state shall send such commission or supersedeas, by mail or otherwise, to the clerk of the county wherein the person so appointed or superseded shall reside.
- [1 R. L., 459, § 4.]
- ii.** § 16. Whenever the governor shall so direct, the secretary of state shall despatch a messenger to the person so appointed or superseded, or to the clerk of the county, with the commission or supersedeas; and whenever directed by the governor, he shall also cause notice of such supersedeas to be published for two weeks successively in the state paper; which publication shall be deemed a sufficient notice within the provisions of this title.
- [1 R. L., 459, §§ 4, 5.]
- Certificate of canvassers.** § 17. The certificates of the board of canvassers authorized to canvass the votes given for any elective office, shall be evidence of the election of the persons therein declared to have been elected.
- 20 Wend., 13; 80 N. Y., 66; 102 N. Y., 118.** § 18. A duplicate certificate of the appointment of commissioners of deeds in towns, signed by the first judge and the chairman of the board of supervisors, shall be made and delivered to each commissioner appointed, which shall be deemed his commission.
- [Abrogated by L. 1840, ch. 238.]
- Commissions of other officers.** § 19. The commissions of all other officers, where no special provision is made by law, shall be signed by the presiding officer of the board or body, or by the person, making the appointment.
- 44 Hun., 580.**

L. 1883, Chap. 285 — An act in relation to appointments to office by the governor by and with the advice and consent of the senate.

Governor and senate may appoint officer before term of incumbent expires. SECTION 1. From and after the passage of this act, in all cases of offices which may by law be filled by appointment by the governor by and with the advice and consent of the

senate, such appointment may be made at any time during the legislative session of the same year in which the term of office of the incumbent shall expire, and whenever such appointment shall be made before the expiration of the term of office of the incumbent, such appointment shall become operative immediately after the expiration of such term; provided, however, that nothing herein contained shall be deemed to limit or restrict the power of the governor to make appointments, by and with the advice and consent of the senate, after the expiration of the term of office of an incumbent thereof.

ARTICLE THIRD.

ART. 3.

OF THE OATH OF OFFICE, AND THE OFFICIAL BOND.

- SEC. 20. Persons elected or appointed to civil offices, to take oath.
- 21. Time within which such oath is to be taken.
- 22. Before whom such oath may be taken.
- 23. Justices of the peace and commissioners of deeds to take oath before county clerk.
- 24. Oaths when certified to be deposited with certain officers.
- 25. Deputies to take oaths.
- 26. Official bonds to be filed within the same time that oath is to be filed.
- 27. Notice to be given of neglect to file official bond or oath.
- 28. Duty of the comptroller when such bond was to have been filed with him. [119]
- 29. Bond to be deemed in full force so long as the officer discharges the duties of his office.
- 30. But the sureties are exonerated after the renewal of such bond.
- 31. Persons executing offices without taking oath or filing bond, to forfeit such offices, and to be deemed guilty of a misdemeanor.
- 32. Members of legislature may take the oath at any time during their term of office.

§ 20. Every person who shall be elected or appointed to any civil office or public trust embraced in this chapter, before he shall enter on the duties of such office or trust, shall take the following oath or affirmation: "I do solemnly swear," or "affirm," as the case may be, "that I will support the Constitution of the United States, and the Constitution of the state of New York, and that I will faithfully discharge the duties of the office of _____ according to the best of my ability."

Oath of office.

52 N. Y., 374.

[Modified as to elective officers by Const., art. XII, § 1.]

§ 21. Whenever a different time shall not be prescribed by law, such oath of office shall be taken and subscribed, and deposited in the proper office, within fifteen days after the officer shall be notified of his election or appointment, or within fifteen days after the commencement of his term of office.

When to be taken.

§ 22. The oath may be taken and subscribed, except where otherwise provided, before the chancellor, any justice of the supreme court, any circuit judge, the secretary of state, the attorney-general, the lieutenant-governor, the president of the senate for the time being, the speaker of the house of assembly, any judge of any county court, any mayor or recorder of any city, the clerk of any county or city or of any court of record.

Before whom.

9 Abh. N. C., 466.

§ 23. The oath of justices of the peace and commissioners of deeds shall be taken before the clerk of the county for which they have been elected or appointed.

Ib. 9 Barb., 324.

§ 24. Every such oath, duly certified by the officer before whom the same was taken shall be deposited within the time required by law as follows:

With whom deposited.

TITLE 6.

1. The oath of the governor, lieutenant-governor, chancellor, justices of the supreme court, comptroller, secretary of state, attorney-general, treasurer, surveyor-general; of the members of the senate and assembly, and of the clerks, sergeants-at-arms and door-keepers thereof; of the canal commissioners, and all other executive and administrative officers, whose authority is not limited to any particular district or county, except where otherwise directed; in the office of the secretary of state.

2. The oath of circuit judges, in the office of the clerk of the county in which they respectively reside.

(120) 3. The oaths of counsellors, solicitors, and attornies, shall be taken before the court of which they are respectively officers, and shall be deposited in the office of the clerk or register of such court.

4. The oath of registers and clerks in chancery, and of clerks of courts of equity and common law, shall be deposited in their respective offices.

5. The oath of supreme court commissioners, notaries public, superintendents of canal repairs, and collectors of canal tolls, in the office of the clerk of the county in which they reside.

6. The oath of all judicial, executive and administrative officers, appointed or elected for any county or city, and of all officers whose duties are local, or whose residence in any particular district or county is prescribed by law, in the office of the clerk of the county in which they reside.

Deputies' oath.
35 Barb., 268.

§ 25. Whenever any officer is authorized or required by law to appoint a deputy, such deputy shall take the same oath of office within fifteen days after his appointment, and shall cause the certificate thereof to be filed in the office where his principal is required to file his oath.

Official bond.
27 N. Y., 401; 57 id., 389; 15 Abb., N. S., 210.

§ 26. Whenever any officer is required by law to execute any official bond, he shall cause the same to be filed in the proper office within the time herein prescribed for filing his oath of office, unless otherwise provided by law.

Notice of neglect.
27 N. Y., 401.

§ 27. In case any officer who is required to file the certificate of his oath of office, or of his official bond, with the secretary of state or with any county clerk, shall neglect to do so within the time required by law, it shall be the duty of such secretary or clerk immediately to give notice of such neglect to the governor. And when any justice of the peace shall neglect to file the certificate of his oath of office, the county clerk shall also give notice of such neglect to the supervisor of the town for which such justice was elected.

Ib.
27 N. Y., 401.

§ 28. Whenever any official bond is required by law to be filed with the comptroller, and there shall be a neglect to file the same within the time prescribed, the comptroller shall immediately give notice thereof to the governor, in case the officer was commissioned by him, and if not so commissioned, then to the board or body which appointed the officer so neglecting.

Effect of bond.
15 Abb. Pr., N. S., 210.

§ 29. Every bond executed by any officer pursuant to law for the faithful discharge of the duties of his office, shall be deemed to be in force and obligatory upon the principal and sureties therein, so long as such officer shall continue to discharge the duties of his office, and until his successor shall be appointed and duly qualified.

§ 30. But the sureties in any such bond shall be exonerated from all liability by reason thereof, for all acts or omissions of their principal, after he shall have duly renewed any official bond, pursuant to law.

§ 31. If any person shall execute any of the duties or functions of any office, without having taken and subscribed the oath of office required by law, or without having executed and filed in the proper office any bond required by law, he shall forfeit the office to which he may have been elected or appointed, and shall be deemed guilty of a misdemeanor punishable by fine or imprisonment.

[1 R. L., 385, § 11.]

§ 32. Members of the legislature may take the oath of office at any time during the term for which they were elected.

ART. 4.
Effect of bond [191]
Penalty for acting without oath or bond. 57 N. Y., 401; 2 Barb., 354.

L. 1832, Chap. 109—An act relative to the oath of justices of the peace.

Official oath, when to be taken. SECTION 1. The oath of office of justices of the peace shall be taken before the clerk of the county for which they may have been elected or appointed, at any time after election or appointment, and before the fifteenth day of January next succeeding.

L. 1887, Chap. 372—An act requiring official bonds, and the bonds or undertakings of officers or trustees appointed by the court, to be recorded in certain cases.

Bonds to be recorded. SECTION 1. All official bonds, and the bond or undertaking of an officer or trustee appointed by an order of the court, and which are now required by law to be filed in the office of the county clerk shall, in addition to such filing, be recorded in the office of such clerk.

Fees. § 2. The clerk shall be entitled to the same fees for such recording as are allowed to him for recording conveyances.

Record evidence. § 3. The record of such bond or undertaking, or a certified copy thereof, may be introduced in evidence in any court with the same effect as if the original were produced.

ARTICLE FOURTH.

OF RESIGNATIONS, VACANCIES AND REMOVALS, AND THE MEANS OF SUPPLYING THEM.

SEC. 33. Resignations to what officers to be made.

34. Offices when to become vacant.

35. Whenever any officer shall be convicted of an infamous crime, etc., and in certain cases court to give notice to governor.

36. Governor to give notice to the body, board or officer, whose duty it shall be to fill vacancy or order election.

37. When officers die or remove, county clerk to give notice to governor.

38. Governor may remove all officers who are appointed by him.

39. Treasurers and other receivers of public money may be removed by the governor, on the report of the comptroller.

40. If judgment be obtained for a breach of an official bond, governor may declare office vacant.

41. Certain officers, appointed by governor and senate, may be removed by the senate, on the recommendation of the governor.

42. Governor may supply certain vacancies by temporary appointments.

43. If a vacancy occur during the recess of the legislature, in the office of treasurer, etc., governor may supply vacancy.

44. Governor may remove sheriffs, clerks, etc., first giving a copy of the charge against them, etc.

45. May direct district attorney to conduct an inquiry into the truth of the charges before a county judge.

46. District attorney may issue process of subpoena.

47. Officer accused to be entitled to the like process.

48. County judge to take and certify the testimony.

49. If a vacancy occur in the office of sheriff, or clerk, except from death, governor to fill vacancy by temporary appointment.

TITLE 6.

Resignations, to whom to be made.

1 Denio, 619; 9 How. Pr., 414.

[122]

When offices become vacant.

32 N. Y., 362.
21 Barb., 500.
45 N. Y., 816.
20 Wend., 568; 9 Wend., 298.

16 Johns., 135.

Notice of conviction,
9 Paige, 509; 9 How. Pr. R., 414.

Duty of governor.
40 N. Y., 116; 47 N. Y., 380; 63 Barb., 15.

Notice of vacancy.

Governor's power of removal.
2 Hill, 98; 6 Hill, 49.

§ 33. Resignations shall be made as follows:

1. By the governor, lieutenant-governor, secretary of state, comptroller, treasurer, attorney-general, surveyor-general and state printer, to the legislature.
2. By all officers appointed by the governor alone, or by him with the consent of the senate, to the governor.
3. By senators and members of assembly, to the presiding officers of their respective houses, who shall immediately transmit the same to the secretary of state.
4. By sheriffs, coroners, county clerks, and register of New York, to the governor.
5. By district-attornies, to the court which appointed them.
6. By justices of the peace, to the supervisor of the town.
7. By commissioners of deeds for towns, to the first judge of the county.
8. By all other officers, to the body, board or officer that appointed them.

§ 34. Every office shall become vacant on the happening of either of the following events before the expiration of the term of such office:

1. The death of the incumbent.
2. His resignation.
3. His removal from office.
4. His ceasing to be an inhabitant of the state, or if the office be local, of the district, county, town or city for which he shall have been chosen or appointed, or within which the duties of his office are required to be discharged.
5. His conviction of an infamous crime, or of any offence involving a violation of his oath of office.
6. His refusal or neglect to take the oath of office within the time required by law, or to give or renew any bond, within the time prescribed by law.
7. The decision of a competent tribunal, declaring void his election or appointment.

§ 35. Whenever any officer shall be convicted of an infamous crime, or of an offence involving a violation of his oath of office, and whenever any election or appointment of any person shall be declared void, the court before which such conviction shall be had, or by which such decision shall be made, shall immediately give notice thereof, to the governor, stating the cause of such conviction or decision.

§ 36. The governor shall immediately give notice of the vacancy created by such conviction or decision, to the body, board or officer, in whom the appointment to the office is vested, or whose duty it may be by law, to order or give notice of, an election to supply the vacancy.

§ 37. Whenever any officer shall die before the expiration of his term of office, or shall remove from the county, district or place for which he was appointed, the county clerk of the county in which such officer resided, shall immediately give notice of such vacancy to the governor.

§ 38. All officers who are or shall be appointed by the governor for a certain time, or to supply a vacancy, may be removed by him.

§ 39. The office of treasurer, or of any other collector or receiver of public monies, appointed by the legislature, by the governor and senate, or by the governor, except those officers for whose removal provision is otherwise made by law, may be declared vacant by the governor, in case it shall appear to him on the report of the comptroller, that such treasurer or other officer, has in any particular, wilfully violated his duty.

ART. 4.
ib.
[123]

[1 R. L., 473, § 3. Abrogated as to the state treasurer by Const., art. V, § 7.]

§ 40. The governor may also declare vacant, the office of every officer required by law to execute an official bond, whenever a judgment shall be obtained against such officer for a breach of the condition of such bond.

Breach of official bond.

§ 41. All officers appointed by the governor with the consent of the senate, except the chancellor, the justices of the supreme court, and the circuit judges, may be removed by the senate, on the recommendation of the governor.

Removal of officers appointed by governor and senate.
9 Paige, 509; 9 How. Pr. R., 414; 99 N. Y., 481.

[L. 1823, 63, §§ 7 and 8; 243, § 1.]

§ 42. The governor may supply all vacancies that may happen during the recess of the senate, in any office to which an appointment shall have been made by the governor, with the consent of the senate, except in the office of chancellor, justice of the supreme court, circuit judge, judge of county courts, and recorders of cities, by granting commissions, which shall expire at the end of twenty days from the commencement of the next meeting of the senate.

Temporary appointments by governor.
24 Wend., 235; 9 Paige, 509.

§ 43. Whenever a vacancy shall occur during the recess of the legislature, in the office of treasurer, or of any other officer appointed by the legislature, the governor shall appoint a person to execute the duties of the office, who shall hold his office, until such vacancy shall be regularly supplied.

ib.

§ 44. The governor may remove the sheriff, any coroner, or clerk of any county, or the register or clerk of the city and county of New York, at any time within the term for which he shall have been elected, giving to such officer a copy of the charge against him, and an opportunity of being heard in his defence, before any removal shall be made.

Removal of sheriffs, clerks, &c., on charges.
3 Hill, 93.

[Modified by Const., art. V, § 1.]

§ 45. The governor may direct the district attorney of the county in which such officer shall be, to conduct an inquiry into the truth of the charges made; who shall give at least eight days' notice to the officer accused, of the time and place when he will proceed to the examination of witnesses, before some judge of the county courts.

District attorney to inquire into charges.

§ 46. The district attorney may issue process of subpœna in his own name, and with the like effect as in cases of complaints before grand juries, to compel the attendance of any witness whom he shall deem material, before the county judge; and such judge shall have the same power to enforce obedience to such subpœnas by attachment, and to commit any person who shall refuse to be sworn or to answer, as the court of common pleas would have in a civil cause pending therein.

Proceedings thereupon.

[124]

§ 47. On the application of the officer accused to the district attorney, or to any justice of the peace, he shall be entitled to the

ib.

TITLE 6. like process of subpoena, which may be enforced in the same manner, by the judge before whom the enquiry shall be conducted.

Proceed-
ings.

§ 48. At the time and place specified in such notice, the county judge before whom the enquiry shall be conducted, shall proceed to take the testimony of the witnesses produced before him by the district attorney, or by the accused officer; the witnesses shall be sworn by such judge; every answer given by them to any question which either party shall require to be reduced to writing, shall be written; their testimony shall be read to and subscribed by them, and shall be certified by the judge taking the same, and delivered to the district attorney, to be by him transmitted to the governor.

Vacancies
in office of
sheriff and
clerk.
6 Hill, 49;
21 Wend.,
216; 14 N.
Y., 52.

§ 49. In every case where a vacancy shall occur in the office of sheriff or county clerk, including the clerk and register of the city and county of New York, except where such vacancy shall arise from the death of the incumbent, the governor shall appoint some fit person who was eligible to the office to execute the duties thereof, until it shall be supplied by an election. The person so appointed, after taking the oath of office, and executing a bond, if one be required of the officer in whose place he shall be appointed, shall possess all the rights and powers, and be subject to all the duties and obligations, of the officer so removed.

L. 1830, Chap. 58—An act requiring the register of the city and county of New York to appoint a deputy, and concerning vacancies in said office, and in the offices of sheriffs and clerks of counties.

[Section 1 was superseded by L. 1853, ch. 610.]

Power of governor to fill vacancies. § 2. The power vested in the governor of this state, by the forty-ninth section of title sixth of the fifth chapter of the first part of the Revised Statutes, in relation to vacancies in office, is hereby extended to all cases of vacancies in the offices therein specified, where the vacancy shall arise from the death of the incumbent; and the person so to be appointed, shall possess all the rights and powers, and be subject to all the duties and responsibilities, provided for and declared in said section.

Sheriffs and clerks. § 3. The preceding section shall not affect the power now vested by law in any sheriff or clerk of any county, to appoint under sheriffs or deputies, nor the powers of said under sheriffs or deputies, as now declared by law.

14 N. Y., 52.

L. 1848, Chap. 4—An act to provide for the filling of vacancies in the office of sheriff.

Vacancies how filled. SECTION 1. Whenever a vacancy exists or shall occur in the office of sheriff, the governor shall appoint some fit person, who may be eligible to the office, to execute the duties thereof, until the commencement of the political year next succeeding the first annual election, after the happening of the vacancy.

Powers of person appointed. § 2. The person so appointed, after taking the oath of office, and executing the proper bond, shall possess all the rights and powers, and be subject to all the liabilities, duties and obligations of such officer.

L. 1849, Chap. 28 — An act to provide for filling vacancies in office.

When governor to fill vacancy; when legislature may fill vacancy; what officers may be removed by concurrent resolution. SECTION 1. Whenever vacancies shall exist or shall occur in any of the offices of this state, where no provision is now made by law for filling the same, the governor shall appoint some suitable person who may be eligible to the office so vacant or to become vacant, to execute the duties thereof until the commencement of the political year next succeeding the first annual election after the happening of the vacancy at which such officer could be by law elected; and the person so appointed to fill such vacancy shall possess all the rights and powers, and be subject to all the liabilities, duties and obligations of such officer, as they are now or may hereafter be prescribed by law: provided, however, that when a vacancy exists in the offices of secretary of state, comptroller, treasurer, attorney-general, state engineer and surveyor, clerk of the court of appeals or canal commissioner, or a resignation has actually been sent in and accepted to take effect at a future day, while the legislature is in session, the two houses thereof, by joint ballot, shall appoint a person to fill such vacancy, actual or prospective; and any person appointed by the governor by and with the advice and consent of the senate, whether in case of vacancy or otherwise (except state prison inspectors), may be removed from such office by concurrent resolution of both houses of the legislature. On such removal both houses shall, by joint ballot, appoint a person to the office made vacant thereby. [*Thus amended by L. 1867, ch. 335.*]

17 N. Y., 372; 14 N. Y., 56; 53 Barb., 9; 25 Barb., 23, 244; 24 Barb., 606; 40 Hun, 364.

L. 1850, Chap. 126 — An act concerning resignations of office.

How resignations made. SECTION 1. In all cases not otherwise provided for by law, resignation of an office may be made by filing in the office of the secretary of state a written resignation thereof, signed by the incumbent; and thereupon the office so relinquished shall be deemed to be vacant.

L. 1866, Chap. 629 — An act to provide for the more speedy determination of charges against officers liable to be removed by the governor.

Governor may appoint commissioner. SECTION 1. In all cases where the governor is or may be authorized by law to remove sheriffs and other officers, he may direct that the testimony may be taken and the examination of the witnesses may be had before himself or before a commissioner appointed by him for that purpose, with the same effect as the same may now be taken and had before a county judge; and the governor is hereby authorized in such cases and for the purpose aforesaid, to appoint such commissioner and to supersede any such appointment, and to appoint a new commissioner whenever it shall appear to be necessary for the purpose aforesaid; such appointment or appointments shall be in writing, and shall be filed in the office of the secretary of state.

Duty of district-attorneys. §2. In such case the governor may direct the district-attorney of the county where the officer sought to be removed may reside, or the attorney-general, to conduct the inquiry and examination, and the same shall be had at such place in the county where the officer sought to be removed shall reside, as shall be fixed by the governor or commissioner, and the said inquiry and examination shall be upon the like notice, and the district-attorney or attorney-general shall have the like power to issue subpoenas to compel the attendance of witnesses and the production of books and papers, and the officer sought to be removed shall be entitled to the process of subpoena in the like manner as now provided by law in such cases before a county judge.

Power of commissioners to issue subpoenas, etc. § 3. The governor or commissioner, as the case may be, shall have the same power to administer oaths and affirmations, to enforce obedience to subpoenas, and to compel witnesses to be sworn and answer, and to do all other things requisite as county judges now have by law in like cases; and in case such inquiry and examination shall be had before such commissioner, the same shall be taken and certified and transmitted to the governor in the same manner as is now provided by law in a like case before a county judge.

[Section 4 repealed by L. 1886, ch. 593.]

Officers to execute this act. § 5. All sheriffs, coroners, constables and marshals to whom process shall be directed and delivered under this act, shall execute the same without any unnecessary delay.

L. 1875, Chap. 397—An act to carry into effect the command of section seven of article ten of the Constitution by providing for the removal of certain officers therein named, and for filling the vacancies created by such removal.

When governor may remove. SECTION 1. Any secretary of state, comptroller, treasurer, attorney-general, state engineer and surveyor, canal commissioner, or state prison inspector may be removed by the senate on the recommendation of the governor for misconduct or malversation in office, if a majority of all the members elected to the senate concur therein. But no removal shall be made by virtue of this act unless the cause thereof be entered on the journals, nor unless the party complained of shall have been served with a copy of the charges against him and shall have an opportunity of being heard. On the question of removal the yeas and nays shall be entered on the journal.

Suspension of office. § 2. The governor may suspend any of the officers named in the first section of this act during the investigation of the charge against said officer, and may appoint a suitable person to perform the duties of the suspended officer during such suspension.

Charges to be served. § 3. At the time of the suspension of such officer a copy of the charges against him shall be served on such officer, with notice of the time for his appearance before the senate for the investigation thereof.

Investigation of charges. § 4. If the senate be in session at the time of such suspension the governor shall send said charges immediately to the senate, and if the senate be not in session he shall convene the same in extra session within thirty days thereafter, for the purpose of proceeding with the investigation of such charges.

Vacancies, how filled. § 5. The governor shall appoint, by and with the advice and consent of the senate, a suitable person to fill the vacancy caused by the removal of any officer named in this act, and the person so appointed to fill such vacancy shall hold his office by virtue of such appointment until the commencement of the political year next succeeding the first annual election after the happening of such vacancy.

Proceedings before senate. § 6. The senate shall have power to make such rules as it may see fit for the practice before it. It shall proceed to hear and try the said charges, upon the appearance and answer of the said officer, or on his neglect to appear, or to answer, after the personal service, in either manner named in the foregoing sections hereof. It shall have power to issue process to compel the attendance of witnesses before it, and all the power, over witnesses and persons in attendance upon it, possessed by any judicial tribunal.

Prosecution of charges. § 7. The governor may direct the attorney-general, or may appoint any suitable person to conduct the trial before the said court of the charges made.

L. 1876, Chap. 133 — An act to provide for the removal of certain officers, and to amend proceedings in relation thereto.

Removal of county treasurer, superintendent of the poor, or notary public. SECTION 1. The governor may remove any county treasurer, county superintendent of the poor, or notary public for misconduct or malversation in office at any time within the term for which such officer shall have been appointed or elected, giving to him a copy of the charges against him, and an opportunity of being heard in his defence before such removal shall be made as in proceedings for a removal of a sheriff; and in any such case the governor may direct testimony to be taken, or an examination to be made in the manner now prescribed by law in proceedings for the removal of a sheriff, and in any case in which the approval or assent of the governor is or may be necessary as a condition of removal of any officer, the governor may direct testimony to be taken, or an examination to be made in the manner aforesaid.

Report and proceedings. § 2. In any order directing the taking of testimony or an examination in a proceeding for the removal of any officer, the governor may direct that the judge or commissioner, in reporting the evidence shall also report the material facts which he deems to be established by the evidence, and in any case where in his judgment the public interests may require it, the governor may direct a hearing on the evidence taken in any such examination before a judge of the supreme court, or a county judge, and a report by such judge of his conclusions on the questions of fact or law involved in the case, and may assign a judge for such hearing.

L. 1880, Chap. 4 — An act to declare the cases in which offices shall be deemed vacant.

New office when to be deemed vacant. SECTION 1. When a new office is created more than three months prior to the next general election, the same shall be deemed vacant from and after the date of the creation of the same and until the same shall be filled by election or appointment.

When office vacant as to additional incumbent. § 2. Whenever more than three months prior to the next general election provision is made for an additional incumbent of an office then existing, such office shall be deemed vacant as to such additional incumbent from and after the time when such provision shall take effect until the same shall be filled by election or appointment.

Applies to all new offices. § 3. This act shall apply to all new offices heretofore created, and to all cases where provision has been heretofore made for an additional incumbent of an office then existing.

L. 1884, Chap. 312 — An act respecting the employment of honorably discharged Union soldiers and sailors in the public service of the state of New York.

Discharged soldiers and sailors to be preferred. SECTION 1. In every public department and upon all public works of the state of New York, and of the cities, towns and villages thereof, and also in non-competitive examinations under the civil service laws, rules or regulations of the same wherever they apply, honorably discharged Union soldiers and sailors, shall be preferred for appointment and employment; age, loss of limb or other physical impairment which does not, in fact, incapacitate, shall not be deemed to disqualify them, provided they possess the business capacity necessary to discharge the duties of the position involved. [*Thus amended by L. 1887, ch. 464.*]

Penalty. § 2. All officials or other persons having power of appointment to or employment in the public service as set forth in the first section of this act, are

charged with a faithful compliance with its terms, both in letter and spirit, and a failure therein shall be a misdemeanor. [*Thus amended by L. 1887, ch. 464.*]

L. 1888, Chap. 119—An act relating to employees of the various cities and counties of this state.

Soldiers and sailors not to be removed, except, etc. SECTION 1. No person holding a position by appointment in any city or county of this state receiving a salary from such city or county, (unless he has been appointed for a definite term) who is an honorably discharged soldier, sailor or marine, having served as such in the union army or navy during the war of the rebellion, shall be removed from such position except for cause shown after a hearing had; but this provision shall not be construed to apply to the position of private secretary or chief clerk or deputy of any official or department, or to any other person holding a confidential relation to the appointing officer.

Repeal. § 2. All laws or part of laws inconsistent with the provisions of this law, are hereby repealed.

TITLE 6.

ARTICLE FIFTH.

PROCEEDINGS TO COMPEL THE DELIVERY OF BOOKS AND PAPERS BY PUBLIC OFFICERS TO THEIR SUCCESSORS.

SEC. 50. Persons removed from, or going out of office, to deliver over books and papers to their successors.

51. On neglect or refusal so to do, such successor may apply to chancellor, etc., for an order to show cause.
52. Proceedings at the time appointed for showing cause. Oath of person charged to be received.
53. If he shall not make oath, and it shall appear that books or papers are withheld, officer shall commit him to jail.
54. Officer may then also issue search warrant.
55. Proceedings on return of search warrant.
56. Upon the death of any officer, the like proceedings may be had against any person into whose hands his books and papers shall come, to compel their delivery.

Books and papers to be delivered to successors. Penalty. 2 Barb., 520; 5 Hill, 616; 9 How. Pr. R., 414; 8 How. Pr. R., 369; 7 How. Pr. R., 124, 173, 282; 42 Barb., 208; 1 Edm. Select Cases, 504.

§ 50. Whenever any person shall be removed from office, or the term for which he shall have been elected or appointed shall expire, he shall, on demand, deliver over to his successor all the books and papers in his custody as such officer, or in any way appertaining to his office. Every person violating this provision, shall be deemed guilty of a misdemeanor.

[125] Delivery, how enforced. 11 How. Pr. R., 448; 14 Barb., 396; 51 How. Pr., 97; 4 T. & C., 357; 16 Abb. N. C., 273; 43 Hun, 438.

§ 51. If any person shall refuse or neglect to deliver over to his successor any books or papers, as required in the preceding section, such successor may make complaint thereof to the chancellor, any justice of the supreme court, any circuit judge of the circuit, or the first judge of the county, where the person so refusing shall reside; and if such officer be satisfied by the oath of the complainant, and such other testimony as shall be offered, that any such books or papers are withheld, he shall grant an order, directing the person so refusing to show cause before him, within some short and reasonable time, why he should not be compelled to deliver the same.

§ 52. At the time so appointed or at any other time to which the matter may be adjourned, upon due proof being made of the service of the said order, such officer shall proceed to inquire into the circumstances. If the person charged with withholding such books or papers, shall make affidavit before such officer, that he has truly delivered over to his successor, all such books and papers in his custody or appertaining to his office, within his knowledge, all further proceedings before such officer shall cease, and the person complained against shall be discharged.

ART. 5.
Proceed-
ings.

§ 53. If the person complained against shall not make such oath, and it shall appear that any such books or papers are withheld, the officer before whom such proceedings shall be had, shall by warrant commit the person so withholding, to the jail of the county, there to remain until he shall deliver such books and papers, or be otherwise discharged according to law.

Ib., when
person
may be
committed.

§ 54. In the case stated in the last section, if required by the complainant, such officer shall also issue his warrant directed to any sheriff or constable, commanding them in the day time, to search such places as shall be designated in such warrant, for such books and papers as belonged to the officer so removed, or whose term of office expired, in his official, capacity, and which appertained to such office, and seize and bring them before the officer issuing such warrant.

Search
warrant,
when
issued.

§ 55. Upon any books and papers being brought before such officer, by virtue of such warrant. he shall inquire and examine whether the same appertain to the office, from which the person so refusing to deliver, was removed or of which the term expired, and he shall cause the same to be delivered to the complainant.

Proceed-
ings there-
upon.

§ 56. If any person appointed or elected to any office, shall die, or his office shall in any way become vacant, and any books or papers belonging or appertaining to such office, shall come to the hands of any person, the successor to such office may, in like manner as hereinbefore prescribed, demand such books or papers, from the person having the same in his possession; and on the same being withheld, an order may be obtained, and the person charged, may in like manner, make oath of the delivery of all such books and papers that ever came to his possession; and in case of omission to make such oath, and to deliver up the books and papers so demanded, such person may be committed to jail, and a search warrant may be issued, and the property seized by virtue thereof, may be delivered to the complainant, as hereinbefore prescribed.

Books and
papers,
how ob-
tained
when off-
icer dies,
&c.

24 Barb.,
587, 636; 5
Abb. Pr. R.,
76, 185, 200,
302, 385; 14

[180]

How. Pr.
R., 317, 550.

CHAPTER VI.

OF ELECTIONS, OTHER THAN FOR MILITIA AND TOWN OFFICERS.

[This chapter was repealed by L. 1842, ch. 130, cit. 8, § 8, and a new election law substituted. The latter is frequently referred to in subsequent acts, as chapter 6 of part 1, of the R. S. ; but it has never been made a portion of the R. S.]

- DIVISION I. THE GENERAL ELECTION LAW.
 DIVISION II. ADDITIONAL PROVISIONS RELATING GENERALLY TO ELECTIONS.
 DIVISION III. CERTAIN JUDICIAL ELECTIONS.
 DIVISION IV. REGISTRY LAWS.
 DIVISION V. PROVISIONS RELATING TO THE NOMINATION OF CANDIDATES, AND EFFORTS TO PROCURE THEIR ELECTION.

DIVISION FIRST.

THE GENERAL ELECTION LAW.

L. 1842, Chap. 130—An act respecting elections, other than for militia and town officers.

- TITLE I.**—Of the qualifications, disabilities and privileges of electors.
TITLE II.—Of general and special elections ; the time and purpose of holding them ; and the persons by whom held.
TITLE III.—Of the mode of notifying general and special elections.
TITLE IV.—Of the manner of conducting elections.
TITLE V.—Of the final canvass, and the mode of declaring and certifying the result.
TITLE VI.—Of the election of representatives in congress, electors of president and vice-president and senators in congress.
TITLE VII.—Penalty for violating the provisions of this chapter, and for misconduct at elections.
TITLE VIII.—Miscellaneous provisions.

TITLE I.

Of the Qualifications, Disabilities and Privileges of Electors.

[Sections 1 and 2 were repealed by L. 1847, ch. 240.]

Disabilities. § 3. No person who shall have been convicted of an infamous crime, deemed by the laws of this state a felony, at any time previous to an election, shall be permitted to vote thereat ; unless he shall have been pardoned before or after his term of imprisonment has expired, and restored by pardon to all the rights of a citizen.

Privileges. § 4. Whenever an election shall be held in any city or town, pursuant to this chapter, no declaration by which a suit shall be commenced, or any civil process, or proceeding in the nature of civil process, shall be served on any elector entitled to vote in such city or town, on the day on which such election shall be held.

Restrictions. § 5. No court shall be opened, or transact any business, in any city or town on the day such election shall be held therein, unless it be for the purpose of receiving a verdict or discharging a jury ; and every adjournment of a court in such city or town, on the day next preceding the day any such election shall be held therein, shall always be to some other day than the day of such election, except such adjournment as may be made after a cause has been committed to a jury. But this section shall not prevent the exercise of the jurisdiction of any single magistrate, when it shall be necessary in criminal cases to preserve the peace, or to arrest offenders. [*Thus amended by L. 1847, ch. 240*].

7 Hill, 194.

Title one to apply to town meetings. § 6. This title shall apply to all town meetings held in the several towns of this state, as well as to the elections named and provided for in this act. [*Added by L. 1878, ch. 354.*]

[For the general qualifications, etc., of electors, see Const., art. II, §§ 1, 2, 3.]

TITLE II.

Of general and special Elections; the time and Purpose of holding them, and the Persons by whom held.

General elections. SECTION 1. General elections are such as are held at the same time in every county, for the election of all or of some of the following officers, namely: governor, lieutenant-governor, judges of the court of appeals, justices of the supreme court, clerk for the court of appeals, secretary of state, comptroller, state treasurer, attorney-general, state engineer and surveyor, canal commissioners, inspectors of state prisons, district attorneys, county judge, senators, members of assembly, sheriffs, clerks of counties, coroners, representatives in congress, and electors of president and vice-president. [*Thus amended by L. 1847, ch. 240.*]

7 Hill, 194; Const., art. VI, § 2.

General elections. § 2. The register and clerk of the city and county of New York, shall also be chosen at a general election.

Special elections. § 3. Special elections are such as are held only in a particular district or county, at a time when no general election is held, for the choice of one or more of the officers proper to be chosen at a general election.

When held. § 4. General elections shall be held on the Tuesday succeeding the first Monday of November in every year; special elections at the times and places of which legal notice shall have been given; but no special election shall be held within forty days previously to a general election.

Duration. § 5. General and special elections shall be held for one day only.

Special elections. § 6. Special elections shall be held in the following cases:

1. When an officer other than a governor, lieutenant-governor and elector of president and vice-president, proper to be chosen at a general election, shall not have been chosen by reason of two or more candidates having received an equal number of votes for the same office.

2. When the right of office of a person elected to the office of a representative in congress, senator, member of the assembly, sheriff, or clerk of any county, or sheriff, clerk, or register of the city and county of New York, shall cease before commencement of the term of service for which such officer shall have been elected.

3. When a vacancy exists in the office of any senator or member of assembly, occurring after the first day of January, in any year, the same shall be filled at the first election held thereafter in any such district where such vacancy may occur, or at a special election to be called by the governor for that purpose; provided such vacancy occurs during the first year of the term of any senator, or before the first day of March in the second year of the term of any senator. But no vacancy shall be filled for the office of member of assembly, unless the same shall occur on or before the first day of April, in any year, unless the legislature is in session at the time such vacancy and election shall take place. The person elected to fill such vacancy shall receive and be paid the full annual salary for the year in which he shall be elected to fill such vacancy, and in case the deceased member shall have been paid the whole or any part of such salary, for such year, the legislature shall make such appropriation as may be necessary to pay such salary. The provisions of this act shall apply to members of the legislature of the year one thousand eight hundred and seventy-seven, elected to fill vacancies therein. [*This subd. thus amended by L. 1877, ch. 322.*]

4. When in case of an extra session of the legislature, a vacancy in the office of member of the assembly or senator shall occur between the first day of April and ten days before the time appointed for such extra session. [*This subd. thus amended by L. 1847, ch. 240*]

Vacancies. § 7. When a special election shall not have taken place, as required by law, the vacancy which ought to have been supplied by such election shall be supplied at the next general election.

Id. § 8. All vacancies in any of the offices named in the first and second sections of this title, except governor, lieutenant-governor, electors of president and vice-president, senators and members of assembly, shall be supplied at the general election next succeeding the happening thereof. [*Thus amended by L. 1847, ch. 240.*]

Id. § 9. If a vacancy proper to be supplied at a general election, shall not have been supplied at the general election next succeeding the happening thereof, a special election to supply such vacancy shall then be held.

Special elections, how ordered. § 10. Special elections in the first case provided for in the sixth section of this title, shall be ordered by the board of canvassers having the power to determine on the election of the officer omitted to be chosen: and in all other cases such election shall be ordered by the governor, who shall issue his proclamation therefor.

Proclamation. § 11. Such proclamation shall specify the county or district in which such special election is to be held; the cause of such election; the name of the officer in whose office the vacancy has occurred; the time when his term of office will expire; and the day on which such election is to be held, which shall not be less than twenty nor more than forty days from the date of the proclamation.

Elections, how held. § 12. The elections in the several cities and towns shall be by election districts.

TITLE III.

Of the Mode of Notifying General and Special Elections.

[This entire title amended by substituting "county judge" for "first judge." L. 1847, ch. 240.]

ART. 1.—Of the notice to be given by the secretary of state.

ART. 2.—Of the notices to be given by the county and state canvassers.

ART. 3.—Of the notices to be given to town officers; the formation of election districts, and the appointment of inspectors of election thereof.

ARTICLE FIRST.

OF THE NOTICES TO BE GIVEN BY THE SECRETARY OF STATE.

[Section 1 was repealed by L. 1847, chap. 240, § 1.]

Senators and county officers. § 2. The secretary of state shall, between the first days of July and September in each year, direct and cause to be delivered to the sheriff or clerk or county judge of each county, a notice in writing, specifying all the officers (county officers excepted) specified in the first section of title second of this act, whose term of service shall expire on the last day of December thereafter, and a like notice specifying the several officers to be chosen in such county at the next general election. [*Thus amended by L. 1847, ch. 240.*]

14 N. Y., 350.

Vacancies. § 3. If any vacancy shall exist in a county, proper to be supplied at the ensuing general election, he shall in like manner, between the first day of July and the fifteenth of October previous to such election, direct and cause to be delivered to the sheriff, clerk or county judge of such county, a notice in writing, specifying the cause of such vacancy; the name of the officer in whose office it has occurred, and the time when his term of office will expire; and if any such vacancy shall exist in a district, he shall in like manner direct and cause to

be delivered to the sheriff, clerk, or county judge of each county therein, the like notice. [*Thus amended by L. 1847, ch. 240.*]

14 N. Y., 350.

Special elections. § 4. When a special election shall have been ordered by the governor in a county, the secretary of state shall forthwith cause a copy of the governor's proclamation to be delivered to the sheriff, clerk, or county judge of such county; and when ordered in a district, to the sheriff, clerk, or county judge of each county therein. [*Thus amended by L. 1847, ch. 240.*]

Publication. § 5. The secretary of state shall cause a copy of each notice issued by him, and of such proclamation of the governor, to be published in the state paper, once in each week, from the date of such notice or proclamation, until the election to which it shall refer.

ARTICLE SECOND.

OF THE NOTICES TO BE GIVEN BY THE COUNTY AND STATE CANVASSERS.

Notices, when and how given. § 6. When a special election shall be necessary, in the case of an equality of votes, provided for in the second title of this chapter, the board of canvassers, having power to determine on the election of the officer omitted to be chosen, shall, without delay, direct and cause to be delivered to the sheriff, clerk, or county judge of each county in the district, or of the county in which such election is to be held, a notice specifying the officer to be chosen; the time for which he is to be chosen, and the day on which such election is to be held; which day shall not be less than twenty nor more than forty days from the date of such notice. [*Thus amended by L. 1847, ch. 240.*]

How signed. § 7. The notice of such an election, if ordered by the board of state canvassers, shall be signed by the secretary of state, and if ordered by the county canvassers, by the chairman and clerk of the board.

ARTICLE THIRD.

OF ELECTIONS IN CITIES AND TOWNS; OF THE NOTICES TO BE GIVEN TO CITY AND TOWN OFFICERS; THE FORMATION OF ELECTION DISTRICTS, AND THE APPOINTMENT OF INSPECTORS OF ELECTION THEREOF.

Election districts in cities. § 8. The several cities of this state shall be divided by the common council of the said cities respectively, into convenient election districts for the holding of all general and special elections, and all elections of the officers of such cities who are elective by the people.

Ward districts. § 9. Every ward in the city, containing not more than five hundred voters, shall be an election district; every ward in a city containing more than five hundred voters and not more than eight hundred voters, may, on or before the first Monday of October next, or in any year thereafter, be divided by the common council of such city, if they shall deem expedient, into two districts, to contain, as near as may be, an equal number of voters; and every ward of a city containing more than eight hundred voters, shall, on or before the first Monday of October next, and as often annually thereafter as may be necessary or expedient, be divided by the common council of such city into two or more districts, in such manner as shall be entire within one ward, and shall contain, as near as may be, an equal number of voters; and no district shall contain more than eight hundred voters.

Map of ward districts to be made. § 10. Whenever a ward shall be divided into two or more districts, the common council shall immediately publish the same, by making a map or description of such division, defining it by known boundaries, and keeping such map or description open for public inspection in the office of the clerk of such city, and also by posting up copies of such map in at least ten of the most public places in each district of such ward; and the common council shall also, prior to every election, furnish copies of such map and description to the inspectors of election in each district of such ward.

Inspectors of election. § 11. Until inspectors of election shall by law be chosen and appointed at the charter election of any city, the common council of such city shall, at least ten days before every general election, appoint three inspectors of election for each election district in said city.

Their qualifications. § 12. The inspectors so appointed shall be qualified voters and residents in such districts, and shall be inspectors, also, of all special elections held in such city during the ensuing year.

Two may act. § 13. Any two of such inspectors may act, and in case of the death or inability of either of them, the common council may thereafter appoint another in his place.

Duty of sheriff, etc., on receiving election notice. § 14. The sheriff or clerk of the county of New York, who shall receive a notice of an election, shall, without delay, deliver a copy of such notice to the board of supervisors of said county, and each supervisor of said county; he shall also cause a copy of such notice to be published once in each week until the election therein specified, in such newspapers in said county, not exceeding fifteen in number, having the largest circulation in the city and the county. [*Thus amended by L. 1860, ch. 480.*]

Towns how to be divided into election districts in 1842. § 15. The supervisor, assessors, and town clerk of each town, shall meet at the town clerk's office in such town on the first Tuesday in September next, at ten o'clock in the forenoon, and form themselves into a board. And in case a majority of said officers, for any cause, do not attend on that day, it shall be the duty of those who do attend, to adjourn to some future day, not exceeding five days, and shall immediately thereupon give notice to those officers who do not attend, of the time of such adjournment; and it shall be the duty of all of said officers to attend on said adjourned day, and to proceed in the same manner as though a majority had attended on the day appointed by law; and adjournments from time to time may be had by said officers, as occasion may require; but no such adjournment shall extend beyond the first day of October in said year. They shall, in all cases where any town shall contain more than five hundred electors, divide the same into a convenient number of election districts, so that each district shall be in a compact form within their town, and shall contain not more than five hundred electors, as far as the number can be ascertained. But where any town shall contain less than five hundred electors, the board may, in their discretion, divide the same into districts. They shall make a certificate of such division, under their hands, in which such districts shall be numbered and described by known boundaries, which shall be immediately filed in the office of the town clerk. The town clerk shall, at least two weeks before the day of election, put up copies of the said certificates in at least four public places in each of the said districts, within ten days after such meeting; and he shall deliver a copy thereof to an inspector in each district before the day of election.

In every succeeding year. § 16. In every succeeding year the same officers shall meet at the town clerk's office, on the first Monday of October, at ten o'clock in the forenoon, and form a board. They shall determine whether any alteration in the existing election districts be necessary or expedient, and shall have power to make the same, subject to the same restrictions and limitations contained in the last preceding section; and shall, in like manner, make a certificate of such alterations, exhibiting the districts as altered, and their numbers respectively; which certificate shall be filed in the town clerk's office. Such alteration shall not take effect until after the then next general election, except in case of the alteration, erection or division of a town, or except such alteration of districts shall not affect any inhabited territory in a town, in which cases it shall take effect immediately. [*Thus amended by L. 1880, ch. 437, sub. nom., "§ 16 of art. 3, ch. 6, part 1st of the R. S."*]

New towns how divided. § 17. When any new town shall be formed, the supervisor, town clerk and assessors therein, shall meet at the town clerk's office, on or before the first Tuesday in September preceding the first general election to be held in such town,

¹ An ineffectual attempt to correct this error was made by L. 1885, ch. 267, § 3.

and divide the same into districts as herein prescribed, and the same proceedings, in all respects, shall be had as herein provided in respect to towns now existing.

Places of holding election how designated; officers to be assigned and selected. § 18. The common council of each city and the said town officers of each town, on the first Tuesday of September next and on the first Monday in September in each year thereafter, shall designate the place in each election district in such city or town at which elections shall be held during the year; and they shall thereupon give notice, written or printed, to be posted in at least eight public places in each district, containing a description of such place so designated, and of the time of opening and closing the poll. The said town officers shall, at their meeting, on the first Tuesday of September next, assign at least three of their number to hold the election in each district, and if there be not a sufficient number for that purpose, they shall assign one or more of their number to each district, and shall select from among the justices of the peace and the commissioners of highways of such town, as many as shall be necessary, in addition to those previously assigned, to constitute at least three inspectors of election for each district; and such inspectors shall be allowed to vote in the district where they shall be respectively assigned. The selections shall be made from the officers aforesaid, in the order herein named, residing in the district to which they shall be assigned, if there be sufficient for the purpose. A certificate specifying the officers thus assigned and selected for each district shall, at the same time, be signed by the board and filed in the office of the town clerk, who shall immediately cause notice thereof to be given to the officers selected. And in case a majority of said common council in any city, or a majority of said town officers, shall for any cause fail to attend for the purposes aforesaid, on the days above mentioned, the same powers are given in relation to adjournments, and the same duties are required in all particulars, as are given in the fifteenth and sixteenth sections of this title to town officers, except that no adjournments shall extend beyond the fifteenth day of September in each year. [*Thus amended by L. 1881, ch. 137, sub. nom., "§ 18 of art. 3 of tit. 3, ch. 6, part 1st of the R. S."*]¹

District inspectors in 1842. § 19. The officers thus assigned and selected shall be inspectors of all general and special elections held in the several districts for which they shall have been appointed, until the annual town meeting in such town in the year one thousand eight hundred and forty-three.

Vacancies, how supplied. § 20. In case any of the persons assigned or selected as inspectors shall not be in office at the time appointed for holding any election, their successors shall be such inspectors; and in case of a vacancy in any of the said offices, or of the absence or inability of any officer to act as inspector at any election, by which the number of inspectors for a district shall be reduced below three, the supervisor of the town, or in case of a vacancy in his office, or his absence or inability, the town clerk, shall designate so many of the justices of the peace or commissioners of common schools, or of the commissioners of highways of the town, as shall be necessary to supply such numbers in the order in which they are herein named, who shall be inspectors of such election for such district.

Inspectors to be annually elected in towns and cities. § 21. At each town meeting to be held in the several towns of this state, and at each annual charter election to be held in the several cities of this state, which are not organized into towns, after the first day of January next, the electors of such city or town shall be entitled to vote by ballot, on the same ticket with other town or charter officers, for two electors residing in each election district of such town or city, to be inspectors of election for such city or town; and the two persons in each district receiving the greatest number of votes, shall be two of the inspectors of election for such district at all elections to be held therein the ensuing year. The presiding officers of such town meeting, or charter election, shall immediately after the votes of such town meeting, or charter election, shall be canvassed, appoint by writing, subscribed by a majority of said presiding officers, another inspector of elections

¹ See L. 1873, ch. 722, in ch. 11, tit. 2, art. 1, post.

for each election district, to be associated with said two inspectors so elected, and who shall thereupon be one of the inspectors of election of such district. Such inspector shall be selected from the two persons in such election district who shall have the highest number of votes next to the two inspectors so elected. And no ballot for inspectors shall be counted, upon which more than two names shall be contained

Vacancies how supplied. § 22. In case any such inspectors in any town shall not be chosen or appointed, as provided for in the preceding section, or any of them shall be absent, or shall have ceased to be a resident of such district, or unable to attend and hold any election in their district, the supervisor, town clerk and justices of the peace in such town, shall meet at such time and place as shall be appointed by the supervisor, or in case of his absence or inability, or a vacancy in his office, by the town clerk, and shall designate and appoint so many electors of such election district, as shall be necessary to supply such vacancy, to be inspectors of election for such district, and shall file a certificate of such appointment in the office of the town clerk; and the persons thus appointed shall be inspectors of such election for such district. And all vacancies which may exist or occur in the office of inspector of election in any city, shall be filled by the common council of such city.

Pay of inspectors. § 23. The inspectors assigned, elected, designated or appointed as herein prescribed, shall receive the compensation provided by law for inspectors of elections in towns or wards.

Towns or wards not divided. § 24. Every town or ward that shall not be divided into election districts according to the preceding provisions, shall constitute and be an election district in itself; and all the provisions of this act in relation to election districts, the election or appointment of inspectors of election therein, and their duties and powers, shall apply to such towns or wards and the inspectors of elections therein.

TITLE IV.

Of the Manner of conducting Elections.

ART. 1.—Of the formation of the board of inspectors; and the appointment of clerks.

ART. 2.—Of the manner of voting, and of challenges.

ART. 3.—Of the duties of the board of inspectors, and clerks of the poll.

ART. 4.—Of the canvass and estimate of the votes by the board of inspectors.

ARTICLE FIRST.

OF THE FORMATION OF THE BOARD OF INSPECTORS AND THE APPOINTMENT OF CLERKS.

Board to be formed. SECTION 1. The inspectors of each election district shall meet at the time and place, when and where an election shall have been appointed to be held therein, and shall proceed to organize themselves as a board, for the purpose of presiding at and conducting such election.

Chairman. § 2. The inspectors shall appoint one of their number chairman of the board, who shall administer to the other inspectors the oath of office, as prescribed by the Constitution, and the same oath shall then be administered to the chairman by one of the other inspectors.

27 N. Y., 53; 8 N. Y., 67.

Clerks. § 3. The two inspectors elected, after having severally taken such oath, shall appoint one clerk, and the inspector appointed, after having taken such oath, shall appoint another clerk, to be called clerks of the poll. [*Thus amended by L. 1881, ch. 163, sub nom., "§ 3 of art. 1 of tit. 4 of ch 6 of part 1 of the R. S."*]

Oath. § 4. The clerks shall each take the constitutional oath of office, which shall be administered to them by the chairman of the board.

8 N. Y., 67.

Poll opened. § 5. The poll, of each election shall then be opened, and proclamation thereof made, and of the time when the same will be closed.

How long to be kept open. § 6. The poll in the several cities, and county of Westchester, shall be opened at sunrise, and in the several towns in all other counties at any time between sunrise and nine o'clock in the morning, and shall be kept open till the setting of the sun; and no adjournment or intermission whatever shall take place until the same be closed. [*Thus amended by L. 1854, ch. 286, sub nom., "§ 6 of art. 1 of tit. 4 of part 1 of the R. S."*]
8. N. Y., 67.

ARTICLE SECOND.

OF THE MANNER OF VOTING, AND OF CHALLENGES.

Ballot. § 7. The electors shall vote by ballot; and each person offering to vote shall deliver his ballot, so folded as to conceal the contents, to one of the inspectors, in the presence of the board.

Its form and contents. § 8. The ballot shall be a paper ticket, which shall contain written or printed, or partly written and partly printed, the names of the persons for whom the elector intends to vote, and shall designate the office to which each person, so named, is intended by him to be chosen; but no ballot shall contain a greater number of names of persons, as designated to any office, than there are persons to be chosen at the election to fill such office.

Names on ballots indorsed "State"; "Judiciary"; "County," or "City and County." § 9. Except as otherwise provided in the subsequent subdivisions of this section, the ballot shall contain as follows:

1. The names of all persons voted for by any elector at any election, in whose election all of the voters of the State have the right alike to participate, except electors of president and vice-president and chief judge and associate judges of the court of appeals, shall be upon one ballot, which ballot shall be indorsed "State." The names of all persons voted for by any elector at any election for chief judge and associate judge of the court of appeals, justices of the supreme court, county judge, separate officers to perform the duties of surrogate, local officers to perform the duties of county judge and surrogate, and all other judges or justices, except such as are elected in and for a district which comprises less than an entire county (or city whose boundaries are coterminous with those of a county), shall be upon one ballot, which ballot shall be indorsed "Judiciary." The names of the persons voted for by any elector at any election for any local office, in whose election all of the voters of a county have the right alike to participate, except representatives in congress, senators and members of assembly, shall be upon one ballot, which ballot shall be indorsed "County," but where the boundaries of a city and county shall be coterminous then all city or county officers in whose election all the voters of said city and county have the right alike to participate, except judges or justices as aforesaid, shall be upon one ballot, which ballot shall be indorsed "City and County." [*This subd. thus amended by L. 1880, ch. 553, sub. nom., "subd. 1 of § 9 of art. 2, tit. 4, ch. 6, part 1 of the R. S."*]

2. In counties entitled to more than one member of assembly, the name of the person voted for by any elector for member of assembly, at any election, shall be upon a separate ballot and indorsed "Assembly."

3. In the city and county of New York, the names of all persons voted for by any elector for senator at any election shall be upon a separate ballot and indorsed "Senate."

4. In the city and county of New York, and in the county of Hamilton, the names of all the persons voted for by any elector for representative in congress at any election, shall be upon a separate ballot and indorsed "Congress." [*The section thus amended by L. 1847, ch. 240.*]

(L. 1865, ch. 475. § 1. Subdivision four of section nine of Laws of eighteen hundred and forty-seven, requiring the names of all persons voted for representatives in congress in the county of Hamilton, to be placed upon a separate ballot, is hereby repealed.)

Electors. § 10. When electors of president and vice-president are to be chosen, a separate ballot shall be given for them, which shall be endorsed "Electors," and shall contain the names of persons designated by the voter giving the same, to be electors of president and vice-president, or any of them.

Term of senators designated. § 11. If at a general election there be one or more vacancies to be supplied in the office of judge of the court of appeals, justice of the supreme court, canal commissioner, or inspector of state prisons, and at the same election, one is to be elected to the same office for a full term, the term for which the person voted for is intended, shall be designated on the ballot. [*Thus amended by L. 1847, ch. 240.*]

Congress designated. § 12. If at a general election for representatives in congress, any person named in a congress ballot, shall be intended to supply a vacancy in the office of such representative, the ballots shall designate the congress for which each person is intended to be chosen.

Challenge; preliminary oath. § 13. If any person offering to vote at any election shall be challenged in relation to his right to vote at that election, by an inspector, or by any other person entitled to vote at the same poll, one of the inspectors shall tender to him the following preliminary oath: "You do swear (or affirm) that you will fully and truly answer all such questions as shall be put to you, touching your place of residence and qualifications as an elector."

27 N. Y., 45, 53; 8 N. Y., 67; 61 N. Y., 420.

Questions to persons challenged. § 14. The inspectors or one of them shall then proceed to question the person challenged in relation to his name; his then place of residence; how long he has resided in the town or ward where the vote is offered; what was the last place of his residence before he came into that town or ward, and also as to his citizenship, and whether a native or naturalized citizen, and if the latter, when, where, and in what court, or before what officer he was naturalized; whether he came into the town or ward for the purpose of voting at that election; how long he contemplates residing in the town or ward; and all such other questions as may tend to test his qualifications as a resident of the town or ward, citizenship and right to vote at that poll.

Vote, when to be rejected. § 15. If any person shall refuse to take the said preliminary oath when so tendered, or to answer fully any questions which shall be so put to him, his vote shall be rejected.

Qualifications. § 16. After receiving the answers of the person so challenged, the board of inspectors shall point out to him the qualification, if any, in respect to which he shall appear to them deficient.

Oath after challenge; on challenge for paying for votes, etc.; on challenge for bribery. § 17. If the person so offering shall persist in his claim to vote, and the challenge shall not be withdrawn, one of the inspectors shall then administer to him the following oath: "You do swear (or affirm, as the case may be) that you have been a citizen of the United States for ten days, and are now of the age of twenty-one years; that you have been an inhabitant of this state for one year next preceding this election, and for the last four months a resident of this county, and for the last thirty days a resident of this election district; and that you have not voted at this election." If the person so offering shall be challenged for causes stated in section two of article two of the Constitution of this state, the following additional oath shall be administered by one of the inspectors: "You do swear (or affirm, as the case may be) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at this election, and have not made any promise to influence the giving or withholding of any such vote; and that you have not made any bet or wager and are not directly or indirectly interested in any bet or wager depending upon the result of this election." If the person so offering shall be challenged on the

ground of having been convicted of bribery or any infamous crime, the following additional oath shall be administered to him by one of the inspectors: "You do swear (or affirm) that you have not been convicted of bribery or any infamous crime, or if so convicted, that you have been pardoned and restored to all the rights of a citizen." [*Thus amended by L. 1875, ch. 138.*]

[Section 18, relating to the oath of a colored man, was repealed by general words in L. 1870, ch. 388, *post.*]

Vote, when to be rejected. § 19. If any person shall refuse to take the oath so tendered, his vote shall be rejected.

Oath of inspector, if challenged. § 20. No inspector of election shall at the first election after this act takes effect, if challenged, be required in the oath administered to him, to state that he is a resident of the district in which he offers to vote, if such vote is offered in the district for which he shall be appointed an inspector.

[Section 21 was repealed by L. 1847, ch. 240, § 1; being superseded by Const., art. II, § 2.]

Minutes respecting persons challenged, etc., to be kept and filed. § 22. The inspectors of election shall keep a minute of their proceedings, in respect to the challenging and administering oaths to persons offering to vote, in which shall be entered, by one of them, the name of every person who shall have taken the oaths prescribed by this, act or either of them, specifying in each case whether the preliminary oath, or the general oath, or both, were taken; which minute and statement shall be certified by such inspectors, and returned by them to the office at which their return of votes given at such election is made, and at the same time, and shall there be filed. The inspectors shall also direct the clerks of the polls to designate by some appropriate mark, opposite to his name, every person entered on said list, who shall have taken said oaths, or either of them.

27 N. Y., 53.

Voting after conviction for bribery, etc. § 23. Any person who, having been convicted of bribery or any infamous crime, shall vote at any election, unless he shall have been pardoned and restored to all the rights of a citizen, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be imprisoned in the county jail for the term of six months. [*Thus amended by L. 1875, ch. 138.*]

ARTICLE THIRD.

OF THE DUTIES OF THE BOARD OF INSPECTORS, AND CLERKS OF THE POLL.

Ballot boxes. § 24. At each annual and special election the inspectors shall provide and keep a box in which all ballots required to be indorsed "State" as directed in the ninth section of this title, shall be deposited; also, a box in which all ballots which are required by said ninth section to be indorsed "Judiciary," shall be deposited; also, a box in which all ballots which are required by said ninth section to be indorsed "County," or "City and County," shall be deposited; also, in the proper counties, a box in which all ballots which are required by said ninth section to be indorsed "Assembly," shall be deposited; also, a box in which all ballots which are required by said ninth section to be indorsed "Senate," shall be deposited; also, a box in which all ballots which are required by said ninth section to be indorsed "Congress," shall be deposited. At any election at which any officers are to be voted for upon ballots not otherwise in this section provided for, there shall be provided as many additional boxes as there are additional kinds of ballots required. [*Thus amended by L. 1880, ch. 553, sub. nom., "§ 24 of art. 3, tit. 4, ch. 6, part 1 of the R. S."*]

Id. § 25. When electors of president and vice-president are to be chosen, or amendments of the Constitution proposed, separate boxes shall in like manner be provided, in which shall be deposited the ballots for such electors, and on such proposed amendments.

Id. § 26. Each box shall be provided with a sufficient lock, and shall be locked before the opening of the poll, and the keys thereof delivered to one of

the inspectors, to be appointed by the board, and shall not be opened during the election, except in the manner and for the purposes hereinafter mentioned.

Id. § 27. An opening shall be made in the lid of each box, not larger than shall be sufficient for a single closed ballot to be inserted therein at one time, through which each ballot received, proper to be placed in such box, shall be inserted.

Ballots deposited. § 28. When the board shall have finally received the ballot of an elector, one of the inspectors, without opening the same, or permitting it to be opened or examined, shall deposit it in the box corresponding in title with the endorsement of the ballot.

Poll lists. § 29. Each clerk of the poll shall keep a poll list, which shall contain one column headed "names of voters," and so many additional columns as there are boxes kept at the election. The heading of each additional column shall correspond with the name of one of the boxes so kept.

Id. § 30. The name of each elector voting shall be entered by each clerk, in the column of his poll list, headed "names of voters;" and when there shall be more than one box kept, opposite such name shall be written the figure 1, in each remaining column of such poll list, corresponding in its heading with the name of a box in which a ballot of the elector shall have been deposited.

Inspectors to challenge. § 31. It shall be the duty of each inspector to challenge every person offering to vote, whom he shall know or suspect not to be duly qualified as an elector.

To preserve order. § 32. The board of inspectors shall possess full authority to maintain regularity and order, and to enforce obedience to their lawful commands, during an election, and during the canvass and estimate of votes, after the closing of the poll; and shall have full authority to preserve peace and good order at and around the polls of the election, and to keep the access thereto open and unobstructed; and may appoint one or more electors to communicate their orders and directions, and to assist in the performance of the duties in this section enjoined.

17 Wend., 522.

Id. § 33. If any person shall refuse to obey the lawful command of the inspectors, or by disorderly conduct in their presence or hearing shall interrupt or disturb their proceedings, they may make an order directing the sheriff, or any constable of the county, to take the person so offending into custody, and detain him until the final canvass of the votes shall be completed; but such order shall not prohibit the person so taken into custody from voting at such election.

Id. § 34. Such order shall be executed by any sheriff or constable, to whom the same shall be delivered; or if none shall be present, by any other person deputed by such board, in writing.

ARTICLE FOURTH.

OF THE CANVASS AND ESTIMATE OF THE VOTES BY THE BOARD OF INSPECTORS.

Canvass, when and how made. § 35. As soon as the poll of an election shall have been finally closed, the inspectors of the said election, in their several districts, shall proceed to canvass the votes. Such canvass shall be public, and shall not be adjourned or postponed until it shall have been fully completed.

Comparison of poll lists. § 36. The canvass shall commence by a comparison of the poll lists, from the commencement, and a correction of any mistakes that may be found therein.

Ballots to be counted. § 37. Each box being opened, the ballots contained therein shall be taken out and counted unopened, except so far as to ascertain that each ballot is single. And if two or more ballots shall be found so folded together

as to present the appearance of a single ballot, they shall be destroyed, if the whole number of ballots exceed the whole number of votes, and not otherwise.

16 Abb. N. C., 272.

Id. § 38. No ballot properly endorsed, found in a box different from that designated by its endorsement, shall be rejected, but shall be counted in the same manner as if found in the box designated by such endorsement, provided that, by the counting of such ballot or ballots, it shall not produce an excess of votes over the number of voters as designated on the poll list.

Excess to be destroyed. § 39. If the ballots shall be found to exceed in number the whole number of votes on the correspondent columns of the poll lists, they shall be replaced in the box, and one of the inspectors shall, without seeing the same, publicly draw out and destroy so many ballots, unopened, as shall be equal to such excess.

Estimate of votes. § 40. The board shall then proceed to canvass and estimate the votes.

Excess to be destroyed. § 41. If after having opened or canvassed the ballots, it should be found that the whole number of them exceeds the whole number of voters entered on the poll lists, the inspectors shall return all the ballots into the box, and shall thoroughly mingle the same; and one of the inspectors, to be designated by the board, shall publicly draw out of such box, without seeing the ballots contained therein, so many of such ballots as shall be equal to the excess, which shall be forthwith destroyed.

Statement of result to be made. § 42. The canvass shall be completed by ascertaining how many ballots of the same kind, corresponding in respect to the names of persons thereon and the offices for which they are designated, have been received; and the result being found, the inspector shall securely attach to a statement of such canvass one ballot of each kind found to have been given for the officers to be chosen at such election, any or either of them, except those given for electors of president and vice-president; and they shall state in words at full length, immediately opposite such ballot, and written partly on such ballot and partly on the paper to which it shall be attached, the whole number of all the ballots that were received which correspond with the one so attached, so that one of each kind of the ballots received at such election for the officers then to be chosen, shall be attached to such paper, with a statement of such canvass. They shall also attach to such paper, the original ballots rejected by them as being defective, which were given at such election.

12 Abb. N. C., 95, 103.

Canvass and statement of votes for president and vice-president. § 43. When electors of president and vice-president shall be chosen at any election, the inspectors shall make a separate canvass and statement of the votes given for electors, in the manner prescribed in the last preceding section, by ascertaining how many ballots of the same kind, corresponding in respect to the names thereon, have been received; and the result being found, the inspectors shall securely attach to paper one original ballot of each kind found to have been given for electors, and shall state, in words at full length opposite such ballot, and written partly thereon, and partly on the paper to which it shall be attached, the whole number of ballots for electors, that were found to have been received, corresponding with the one so attached. They shall also attach to such paper all original ballots for electors, rejected by them as being defective.

Form of statement. § 44. The statements to be made by the inspectors shall contain a caption, stating the day on which, and the number of the district, the town or ward, and the county at which the election was held, in relation to which such statement shall be made; it shall also contain a statement showing the whole number of ballots taken for each person, designating the office for which they are given, which statement shall be written in words at length; and at the end thereof, a certificate that such statement is correct in all respects; which certificate shall be subscribed by the inspectors.

Copy to be filed. § 45. A true copy of the several statements made by the inspectors, shall be made and certified by them, and immediately filed by them, in the office of the clerk of the town or city.

Poll lists to be filed. § 46. The poll lists kept at such election shall be filed by the inspectors, or one of them, in the office of the clerk of the town or city in which such election was held, and shall be there preserved.

Ballots to be destroyed. § 47. The remaining ballots not so pasted or attached, shall be destroyed, and the board of inspectors shall be dissolved.

Original statements to be delivered to supervisors. § 48. The original statements, duly certified, shall be delivered by the inspectors, or by one of them to be deputed for that purpose, to the supervisor of the town or ward, within twenty-four hours after the same shall have been subscribed. If there be no supervisor, or he shall be disabled from attending the board of county canvassers, such original statement shall be delivered to one of the assessors of the town or ward in which such election was held.

TITLE V.

Of the Final Canvass, and the Mode of Declaring and Certifying the Result.

ART. 1.—Of the board of county canvassers, and their proceedings.

ART. 2.—Of the duties and proceedings of the county clerk.

ART. 3.—Of the duties of the secretary of state, previous to the meeting of the state canvassers.

ART. 4.—Of the formation and proceedings of the board of state canvassers.

ART. 5.—Of the subsequent duties of the secretary of state.

ARTICLE FIRST.

OF THE BOARD OF COUNTY CANVASSERS, AND THEIR PROCEEDINGS.

Board how composed. SECTION 1. The supervisors or assessors, to whom the original statements of the canvass of votes in the towns or wards, to which they respectively belong, shall have been delivered, shall form the county board of canvassers.

Where and when to meet. § 2. They shall meet at the office of the county clerk, on the Tuesday next following the election, before one o'clock in the afternoon of that day, in all the counties of this state except the county of Hamilton, which shall meet on the first Friday next following said election, and shall choose one of their number as chairman. [*Thus amended by L. 1844, ch. 331, sub. nom., "§ 2 of art. 1 of tit. 5 of ch. 6 of part 1st of the R. S."*]

Secretary. § 3. The clerk of the county, or in his absence his deputy, shall be secretary of the board.

Oath. § 4. The chairman shall then administer the constitutional oath to each member of the board, and the same oath shall be administered to him by the secretary.

Quorum. § 5. The major part of the supervisors or assessors to whom the original statements of the canvass in the several districts of their towns or wards shall have been delivered, shall be a sufficient number to constitute a board.

10 Abb. N. C., 320; 12 Abb. N. C., 77, 84.

Estimate of votes to be made. § 6. The original statements of the canvass in each district shall then be produced, and from them the board shall proceed to estimate the votes of the county, and shall make such statements thereof, as the nature of the election shall require; such statements shall then be delivered to and deposited with the county clerk.

Separate statements to be made. § 7. They shall make a separate statement containing the whole number of votes given in such county for the office of governor, lieutenant-governor, judge of the court of appeals, justice of the supreme court, clerk of the court of appeals, secretary of state, comptroller, treasurer, attorney-

general, state engineer and surveyor, canal commissioner, inspector of state prisons, senator in each district, and representative in congress in each district or any or either of them; the names of the persons for whom such votes were given, and the number of votes given for each; another, of the votes given for all county officers, any or either of them; another, of the votes given for member of assembly, in each assembly district; and another, of the votes for electors of president and vice-president; and another, of the votes given for any proposed amendment to the Constitution. [*Thus amended by L. 1847, ch. 240.*]

Number of votes and names written at length. § 8. In such statements, the whole number of votes given in each town and district, the names of the candidates, and the number of votes given to each, shall be written out in words at full length.

How certified. § 9. Each statement shall be certified as correct, and attested by the signatures of the chairman and secretary of the board; and a copy of each, thus certified and attested, shall be delivered to the county clerk, to be recorded in his office.

Members of assembly and county officers. § 10. Upon the statement of votes given for members of assembly and county officers, the board shall proceed to determine what person or persons have, by the greatest number of votes, been duly elected to each of the offices mentioned in each statement.

5 Denio, 439; 5 Hill, 616; 3 id., 42; 20 Wend., 13; 8 Cow., 103; 4 id., 297.

Copy to be published. § 11. The board shall cause a copy of every such determination, and of the statement upon which it shall be made, to be published in one or more of the newspapers printed in the county.

If an inspector cannot attend at board. § 12. If any one of the supervisors or assessors appointed to attend the county canvass shall be unable to attend the meeting of the board on the day appointed for such meeting, he shall, on or before that day, cause to be delivered at the office of the county clerk the original statement of the votes of his town or ward.

Duty of those who attend. § 13. If on that day a majority of the county canvassers shall not attend, or the statements of the votes from every district in the county shall not be produced, the canvassers then present shall adjourn to some convenient hour of the next day.

Id. § 14. At that hour they shall again meet, and the canvassers then attending, although less than a majority of the whole, shall organize themselves as a board, and upon the statements, or certified copies thereof, then produced, shall proceed to estimate, state and certify the votes of the county, in the manner before directed.

Statements containing omissions, etc., may be returned to be corrected. § 15. If upon proceeding to canvass the votes, it shall clearly appear to the canvassers that in any statement produced to them, certain matters are omitted in such statement, which should have been inserted, or that any mistakes which are clerical merely exist, they shall cause the said statement to be sent by one of their number, (who they shall depute for that purpose,) to the town or ward inspectors, and town or ward canvassers of the town or ward from whom they were received, to have the same corrected; and the said canvasser so deputed shall immediately proceed and give notice to the said town or ward inspectors and canvassers, whose duty it shall be forthwith to assemble together and make such correction as the facts of the case require; but such town or ward inspectors and canvassers shall not at such meeting change or alter any decision before made by them, but shall only cause their canvass to be correctly stated; and the board of county canvassers are authorized to adjourn from day to day, for the purpose of obtaining and receiving such statement, such adjournment not to extend beyond three days.

ARTICLE SECOND.

OF THE DUTIES AND PROCEEDINGS OF THE COUNTY CLERK.

Clerk to deliver statements. § 16. The county clerk shall deliver to the board of county canvassers, all the certified statements of the votes taken in each town or ward at the next preceding election, that shall have been received at his office.

To procure those not received by him. § 17. If on the day appointed for the meeting of the board of county canvassers, the board shall not have been organized, owing to a deficient return of the votes of the county, the county clerk shall, by a special messenger, or otherwise, obtain necessary statements or certified copies thereof, in time to be produced to the board at their next meeting.

To record statements. § 18. The county clerk shall record in his office all the statements and certificates, that shall have been delivered to him by the county board of canvassers, and shall keep a proper book for that purpose.

To prepare three copies. § 19. Of the statement and certificate of the votes for the office of governor, lieutenant-governor, judges of the court of appeals, justices of the supreme court, clerk for the court of appeals, secretary of state, comptroller, treasurer of the state, attorney-general, state engineer and surveyor, canal commissioners, inspectors of state prisons, senators and representatives in congress, or either of them, he shall prepare three certified copies under his signature, and sealed with his seal of office. [*Thus amended by L. 1847, ch. 240.*]

To transmit the same to governor, secretary and comptroller. § 20. Within five days after the adjournment of the board of county canvassers, the county clerk shall deposit in the nearest post-office, directed to the governor, to the secretary of state, and to the comptroller, each, one of the certified copies of the statement and certificates of votes, so prepared by him.

To deliver copy of certificate to county officers. § 21. He shall prepare as many certified copies of each certificate of the determination of the board of county canvassers, as there are persons declared to be elected in such certificate, and shall, without delay, deliver one of such copies to each person so elected.

List to be sent to secretary of state. § 22. He shall transmit to the secretary of state, within twenty days after a general election, and within ten days after a special election, a list of the names of the persons elected in the county as members of assembly, and also a list of the names of all persons elected to any county office at such election, with the places of their residence respectively.

ARTICLE THIRD.

OF THE DUTIES OF THE SECRETARY OF STATE, PREVIOUS TO THE MEETING OF THE STATE CANVASSERS.

Certified statements to be filed by secretary. § 23. It shall be the duty of the secretary of state to file in his office, the certified statements received by him from a county clerk; and to obtain from the governor and comptroller, every such certified statement received by either of them, and to file the same in his office.

To send special messengers to county clerks. § 24. If from any county from which such statement shall be due, none shall have been received or obtained by him, on or before the last day of November next after a general election, and within twenty days after a special election, he shall despatch a special messenger to obtain such statement from the clerk of such county.

Duty of clerks. § 25. Such clerk shall immediately, on the demand of such messenger, made at his office, make out and deliver to such messenger the statements required.

Duty of messengers. § 26. The messenger shall deliver to the secretary of state, as soon as may be, all such statements as he shall receive, to be filed and recorded as aforesaid.

Secretary to notify state canvassers. § 27. The secretary of state shall appoint a meeting of the state canvassers to be held at his office, or that of the treasurer or comptroller, on or before the fifteenth day of December after each general election, and within forty days after a special election.

Secretary when to notify Albany mayor, etc. § 28. If a majority of those officers shall be unable or shall fail to attend on the day appointed, he shall give notice to the mayor and recorder of the city of Albany, that their attendance is required.

ARTICLE FOURTH.

OF THE FORMATION AND PROCEEDINGS OF THE BOARD OF STATE CANVASSERS.

Board, how composed. § 29. The secretary of state, comptroller, surveyor-general, attorney-general and treasurer, shall be the state canvassers; three of whom shall be a sufficient number to form a board. After the present year the state engineer and surveyor shall be one of the state canvassers in the place of the surveyor-general. [*Thus amended by L. 1847, ch. 240.*]

Id. § 30. If a majority of those officers shall be unable, or shall fail to attend, the mayor and recorder of the city of Albany, being notified by the secretary of state, shall attend without delay, and, with the officers attending, shall form the board.

How to proceed. § 31. The board when thus formed shall upon the certified copies of the statements made by the boards of county canvassers, proceed to make a statement of the whole number of votes given at such election for the office of governor and lieutenant-governor, or either of them; another statement of the votes given for the office of senator; and another, of the votes for representatives in congress; another, of the votes for judges of the court of appeals; another, of the votes for justices of the supreme court; another, of the votes for the clerk for the court of appeals; another, of the votes for secretary of state; another, of the votes for comptroller; another, of the votes for state treasurer; another, of the votes for attorney-general; another, of the votes for state engineer and surveyor; another, of the votes for canal commissioners; and another, of the votes for inspectors of state prisons; each of which statements shall show the names of the persons to whom such votes shall have been given for either of the said offices, and the whole number of votes given to each; distinguishing the several districts and counties in which they were given. They shall certify such statements to be correct, and subscribe the same with their proper names. [*Thus amended by L. 1847, ch. 240.*]

5 Denio, 409; 5 Hill, 616; 3 Hill, 42; 8 N. Y., 67.

To determine and declare persons elected. § 32. Upon such statements they shall then proceed to determine and declare what persons have been by the greatest number of votes duly elected to such offices, or either of them.

To subscribe certificates. § 33. They shall make and subscribe on the proper statement, a certificate of such determination, and shall deliver the same to the secretary of state.

5 Hill, 616; 55 N. Y., 525.

Dissents. § 34. If any one of the canvassers shall dissent from a decision of the board, he shall state at large, in writing, the reasons of such dissent.

Protests. § 35. If any of the acts or proceedings of the board shall appear to any one of the canvassers to be illegal or irregular, such canvasser shall protest against the same in writing, setting forth distinctly the grounds of his protest.

Id. § 36. The canvasser so dissenting or protesting, shall deliver his dissent or protest, signed with his proper name, to the secretary of state, who shall file the same in his office.

Adjournments. § 37. The board shall have power to adjourn from day to day, for a term not exceeding five days.

ARTICLE FIFTH.

OF THE SUBSEQUENT DUTIES OF THE SECRETARY OF STATE.

To record proceedings of state canvassers. § 38. He shall record in his office, in a book to be kept by him for that purpose, each certified statement and determination which shall be delivered to him by the board of state canvassers, and every dissent or protest that shall have been delivered to him by a canvasser.

To transmit copy to each person elected. § 39. He shall, without delay, transmit a copy, under the seal of his office, of such certified determination to each person thereby declared to be elected, and a like copy to the governor.

To publish copy. § 40. He shall cause a copy of such certified statements and determinations to be printed in the state paper, and in no other paper whatever, at the public expense. [*Thus amended by L. 1876, ch. 287.*]

General certificate of members of congress. § 41. He shall prepare a general certificate under the seal of this state, and attested by him as secretary thereof, addressed to the house of representatives of the United States, in that congress for which any person shall have been chosen, of the due election of the persons so chosen at each election, as representatives of this state in congress; and shall transmit the same to the said house of representatives, at their first meeting.

Of members to supply vacancies. § 42. If either of the persons so chosen at such election shall have been elected to supply a vacancy in the office of representative in congress, it shall be mentioned by the secretary, in the statements and certificates to be prepared by him.

To record names of county officers elected. § 43. The secretary of state shall enter in a book, to be kept in his office, the names of the respective county officers elected in this state, specifying the counties for which they were severally elected and their place of residence, the office to which they were respectively elected, and their term of office.

TITLE VI.

Of the Election of Representatives in Congress, Electors of President and Vice-President, and Senators in Congress.

ART. 1.—Of the election of representatives in congress.

ART. 2.—Of the election of electors of president and vice-president.

ART. 3.—Of the formation and proceedings of the college of electors.

ART. 4.—Of the election of senators in congress.

ARTICLE FIRST.

OF THE ELECTION OF REPRESENTATIVES IN CONGRESS.

When chosen. SECTION 1. Representatives in the house of representatives of the congress of the United States shall be chosen in the several congress districts, at the general elections held therein, in every second year, after the year one thousand eight hundred and twenty-six.

Resignation or death. § 2. If a representative in congress shall resign, he shall forthwith transmit a notice of his resignation to the secretary of state; and if a vacancy shall occur by death or otherwise in the office of a representative in congress, the clerk of the county in which such representative shall have resided at the time of his election, shall, without delay, transmit a notice of such vacancy to the secretary of state.

ARTICLE SECOND.

OF THE ELECTION OF ELECTORS OF PRESIDENT AND VICE-PRESIDENT.

Election by general ticket. § 3. At the general election in November, preceding the time fixed by the law of the United States for the choice of president and vice-president of the United States, there shall be elected by general ticket, as many electors of president and vice-president as this state shall be entitled to appoint; and each elector in this state shall have a right to vote for the whole number; and the several persons to the number required to be chosen, having the highest number of votes, shall be declared and deemed duly appointed electors.

Duty of county clerks. § 4. The county clerk of each county shall make three certified copies of the statement of votes given for electors in his county, immediately after recording the same, and forthwith transmit, by mail, one of such certified copies to the governor, another to the secretary of state, and deliver the other as hereinafter directed.

Id. § 5. One of the certified copies of such statement of votes given in each of the several counties of the state, shall be delivered by the clerks of such counties respectively, or by their respective deputy clerks, as herein directed, on or before the second day succeeding that on which the canvass shall have been made, to the secretary of state. [*Thus amended by L. 1885, ch. 446.*]

[Sections 6 to 13, both inclusive, repealed by L. 1885, ch. 446.]

Duty of state canvassers. § 14. The board of state canvassers shall meet at the office of the secretary of state, on the Wednesday next after the third Monday of November, after every such election, or sooner, if all the certified copies of the statements of the county canvassers shall have been received from all the counties, to canvass the votes given for electors of president and vice-president; and in case all the certified statements shall not have been received on that day, the board may adjourn from day to day until the same shall have been received, not exceeding five days; and if at the expiration of four days, certified copies of the statements of the county canvassers shall not have been received from any county, the board shall proceed to canvass upon such of the said statements as shall have been received.

Statement of votes. § 15. The board of state canvassers shall proceed in making a statement of all the votes, and determining and certifying the persons elected, in the manner prescribed by law in relation to the election of state officers.

Duty of secretary of state. § 16. The secretary of state shall, without delay, cause a copy, under the seal of his office, of the certified determination of the board of state canvassers to be delivered to each of the persons therein declared to be elected; and for that purpose he may employ such and so many messengers as he shall deem necessary.

Publication. § 17. The determination and certificate of the board of state canvassers in relation to the choice of electors shall be published in the same manner as provided by law in relation to the certificates of the election of state officers.

[Section 18 repealed by L. 1885, ch. 446.]

Penalty for wilful neglect; taking away by force. § 19. If any county clerk or deputy county clerk, or other officer, on whom any duty is enjoined in this act, shall be guilty of any wilful neglect of such duty or of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be deemed guilty of a misdemeanor, punishable by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both; and if any person shall be found guilty of taking away from

any of the said county clerks or deputy county clerks, either by force or in any other manner, any such certificate intrusted to his care, or of wilfully doing any act that shall defeat the due delivery thereof, as directed by this act, he shall be punished by imprisonment in the state's prison at hard labor for not less than two nor exceeding four years. [*Thus amended by L. 1885, ch. 446.*]

Compensation. § 20. The said county clerks shall receive for their compensation, respectively, five cents per mile for each mile travelled by the usual route going and returning, to be audited by the comptroller, upon the certificate of the secretary of state. [*Thus amended by L. 1885, ch. 446.*]

ARTICLE THIRD.

[*This entire article was amended by L. 1889, ch. 1, so as to read as follows :*]

OF THE FORMATION AND PROCEEDINGS OF THE COLLEGES OF ELECTORS.

Meeting and duty of electors. § 21. The election of president and vice-president shall convene at the capitol on the second Monday in January next following their election; and those of them who shall be so assembled at twelve o'clock, noon of that day, shall immediately after that hour proceed to fill by ballot and by plurality of votes, all vacancies in the electoral college, occasioned by the death, refusal to serve or neglect to attend at that hour, of any elector, or occasioned by an equal number of votes having been given for two or more candidates.

President and secretaries. § 22. The electoral college being thus completed, they shall then choose a president and one or more secretaries from their own body.

Lists of electors. § 23. The secretary of state shall prepare three lists, setting forth the names of such electors, and the canvass, under the laws of this state, of the number of votes given for each person for whose election any and all votes were given, together with the certificate of determination thereon, by the state canvassers; procure to the same the signature of the governor; affix thereto the seal of the state; and deliver the same thus signed and sealed to the president of the college of electors on the said second Monday in January.

When and how to vote. § 24. On the said second Monday in January, the electors shall meet at the capitol, and then and there vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as president, and in distinct ballots, the person voted for as vice-president.

Lists of votes. § 25. They shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and after annexing thereto one of the lists received from the secretary of state, as herein provided, they shall seal up the same, certifying thereon, that lists of the votes of this state, for president and vice-president are contained therein.

Messenger. § 26. The electors shall then, by writing under their hands, or under the hands of the majority of them, appoint a person to take charge of the lists so sealed up, and to deliver the same to the president of the senate, at the seat of government of the United States, before the third Monday in the said month of January.

His duty. § 27. In case there shall be no president of the senate at the seat of government, on the arrival of the person intrusted with the lists of the votes of the electors, then such person is required to deliver the lists of votes in his custody into the office of the secretary of state of the United States.

Two other lists. § 28. The electors are also required to forward forthwith, by the post-office in the city of Albany, to the president of the senate of the United States, at the seat of government, and to deliver forthwith to the judge of the United States for the Northern district of the state of New York, similar lists, signed, annexed, sealed up and certified in the manner aforesaid.

Compensation of electors; comptroller to audit. § 29. Every elector of the state for the election of a president and vice-president of the United States, who shall attend at any election of those officers and give his vote at the time and place appointed by law, shall be entitled to receive for his attendance at such election, the sum of fifteen dollars per day, together with ten cents per mile, each way, from his place of residence, by the most usual travelled route to the place of the meeting of said electors, to be audited by the comptroller upon the certificate of the secretary of state, and paid by the treasurer.

ARTICLE FOURTH.

OF THE ELECTION OF SENATORS IN CONGRESS.

When chosen. § 30. On the first Tuesday of February, next before the expiration of the time for which any senator was elected to represent this state in congress, if the legislature shall be then in session, and if not, then within ten days after a quorum of both houses shall be assembled at the then next meeting of the legislature, an election shall be held for a senator in congress, at the place where the legislature shall be then sitting, in the room of such senator so going out of office.

Vacancy. § 31. Whenever the seat of any such senator shall become vacant before the expiration of the time for which he was elected, another senator shall be elected in his room within ten days after the legislature shall have notice of such vacancy, at the place where it shall be then sitting.

How chosen. § 32. Such election shall be made by the legislature in the following manner: the senate and assembly shall each openly nominate one person for the office of senator in congress, after which they shall immediately meet, and if they shall agree in their nominations, the person so nominated shall be appointed to the office for which he shall be nominated; if they shall disagree, the election shall be made by the joint ballot of the senators and members of assembly.

Evidence of election. § 33. Whenever any senator shall be chosen as aforesaid, copies of the resolutions of the senate and assembly, testifying such choice, signed by the president of the senate and speaker of the assembly, shall be thereupon delivered to the person so chosen a senator, as evidence of such election.

[See R. S. of U. S., §§ 14-19.]

TITLE VII.

Penalty for violating the Provisions of this Chapter, and for Misconduct at Elections.

False swearing. SECTION 1. If any elector challenged as unqualified, shall be guilty of wilful and corrupt false swearing or affirming, in taking any oath or affirmation prescribed by this chapter, such person shall be adjudged guilty of wilful and corrupt perjury.

Procuring it. § 2. Every person who shall wilfully and corruptly procure any person to swear or affirm falsely as aforesaid, shall be adjudged guilty of subornation of perjury; and shall, upon conviction thereof, suffer the punishment directed by the law in cases of wilful and corrupt perjury.

Neglect of duty. § 3. If any officer on whom any duty is enjoined in this chapter, or in any statute relating to elections, shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment; the fine in no case to exceed the sum of five hundred dollars, nor the imprisonment the term of one year.

29 Hun, 377; 90 N. Y., 498.

Bribery, etc. § 4. If any person shall by bribery, menace or other corrupt means or device whatsoever, either directly or indirectly, attempt to influence any elector

of this state in giving his vote or ballot, or deter him from giving the same, or disturb or hinder him in the free exercise of the right of suffrage, at any election within this state, held pursuant to this chapter, and shall thereof be convicted, such person so offending and convicted shall be adjudged guilty of a misdemeanor, and be fined or imprisoned, according to the discretion of the court before which such conviction shall be had; such fine in no case to exceed five hundred dollars, nor such imprisonment one year.

Calling out militia prohibited. § 5. If any officer or other person shall call out or order any of the militia of this state, to appear and exercise on any day during any election to be held by virtue of this chapter, or within five days previous thereto, except in cases of invasion or insurrection, he shall forfeit the sum of five hundred dollars for every such offence.

Certain acts by candidates prohibited. § 6. It shall not be lawful for any candidate for any elective office, with intent to promote his election, or for any other person, with intent to promote the election of any such candidate, either,

1. To provide or furnish entertainment at his expense, to any meeting of electors, previous to, or during the election at which he shall be a candidate; or,
2. To pay for, procure, or engage to pay for any such entertainment; or,
3. To furnish any money or other property to any person, for the purpose of being expended in procuring the attendance of voters at the polls; or,
4. To engage to pay any money, or deliver any property or otherwise compensate any person for procuring the attendance of voters at the polls; or,
5. To contribute money for any other purpose intended to promote an election of any particular person or ticket, except for defraying the expenses of printing, and the circulation of votes, handbills and other papers previous to any such election, or for conveying sick, poor or infirm electors to the polls.

1 Hill, 387; 5 id., 27; 100 N. Y., 552. [See also art. XII, amended Const., as to form of oath to be taken by elective officers.]

Changing votes. § 7. No person shall fraudulently or deceitfully change or alter a ballot of any elector, nor shall furnish an elector any ballot containing more than the proper number of names, or cause any other deceit to be practiced with intent fraudulently to induce such elector to deposit the same as his vote, and thereby to have the same thrown out and not counted.

Punishment. § 8. Every person offending against the provisions of this act shall be deemed guilty of a misdemeanor, punishable by fine not exceeding two hundred and fifty dollars, or by imprisonment not exceeding six months.

Penalty for disobeying inspectors, etc. § 9. If any person shall wilfully disobey any lawful commands of the board of inspectors of any election, or shall wilfully and without lawful authority, obstruct, hinder or delay any elector on his way to any poll where an election shall be held, or while he is exercising or attempting to exercise the right of voting, or shall aid or assist in such obstruction or delay, he shall, on conviction, be adjudged guilty of a misdemeanor, and be fined in a sum not exceeding two hundred and fifty dollars, and may be imprisoned, in the discretion of the court, for not more than six months.

Penalty for non-residents voting, and for voting more than once; repeal. § 10. Any person who at any general or special election, or city or charter election, shall knowingly vote or offer to vote in any election district in which he does not reside, except as hereinbefore provided, or who shall vote or offer to vote more than once at the same election, either in the same or in any other election district, shall, on conviction, be adjudged guilty of a misdemeanor, and punishable by fine not exceeding two hundred dollars, or by imprisonment not exceeding six months, or by both, as the court may direct; and section nineteen of title six, chapter one, of the fourth part of the Revised Statutes is hereby repealed.

Procuring illegal voters. § 11. Every person who shall procure, aid, assist, counsel or advise another to give or offer his vote at any general, town, city or charter election, knowing that the person is not duly qualified to vote at the place where

the vote is given or offered, shall, on conviction, be adjudged guilty of a misdemeanor, and punishable as prescribed in the last preceding section of this title.

Procuring non-residents to come into a town, ward or district to vote. § 12. Every person who shall procure, aid, assist, counsel or advise another to go or come into any town, ward or election district, for the purpose of giving his vote at any general, special, town or city election, knowing that the person is not duly qualified to vote in such town, or ward, or election district, shall, on conviction, be deemed guilty of a misdemeanor, and punishable as prescribed by the tenth section of this title.

Punishment; Unqualified person, or inhabitant of another state or country voting. § 13. Any person not duly qualified to vote under the laws of this state, who shall knowingly vote or offer to vote at any general or special town or charter election in this state, shall be adjudged guilty of a misdemeanor, and on conviction shall be imprisoned for a period not exceeding six months, at the discretion of the court before which the offence is tried. And any inhabitant of another state, or country, who shall vote or offer to vote at any general, special, town or city charter election in this state, shall be adjudged guilty of a felony, and on conviction, shall be imprisoned in the state prison, for a period not exceeding one year, at the discretion of the court before which the offence is tried. And it shall be the duty of the district-attorney in the county where the offence shall have been committed, to adopt effectual measures for the punishment of all persons, who, without being legally qualified, shall vote or attempt to vote at any election in this state.

57 Barb., 627; 1 Park. Cr. R., 118.

Inspectors of election, etc., to give notice of offences under this act. § 14. It shall be the duty of every inspector of elections, sheriffs, constables and justices of the peace within this state, knowing that an offence has been committed, under this act, or having good reason to believe that an offence has been committed, to give information thereof to the district attorney of the county in which the offence shall have been committed, whose duty it shall be to adopt effectual measures for the punishment of all persons violating the provisions of this act.

Grand juries to be specially charged. § 15. It shall be the duty of the presiding judge of every court of general sessions of the peace or oyer and terminer within this state, specially to charge the grand jury at each term of said court, to take notice of all offences committed in violation of any of the provisions of this act.

Title seven to apply to town meetings. § 16. This title shall apply to all town meetings held in the several towns in this state, as well as to the elections named and provided for in this act. [*Added by L. 1878, ch. 354.*]

TITLE VIII.

Miscellaneous Provisions.

Hamilton county. SECTION 1. The county of Hamilton and the county of Fulton shall jointly elect one member of assembly; and for all the purposes of this act, the county of Hamilton shall be deemed part of the county of Fulton.

Inspectors. § 2. It shall be lawful for a majority of the inspectors of any election, held in pursuance of this chapter, to execute all the trusts and duties required to be executed by the inspectors of any such election.

Id. § 3. If a majority shall not be present on any day on which an election is held, the inspectors or inspector attending, shall appoint so many electors of the town, ward or district, to act as inspectors, as may be necessary to form a board.

Id. § 4. The persons so appointed shall take the constitutional oath, and continue to act until a majority of the inspectors shall attend.

Notice to clerk and first judge. § 5. No notice of an election, nor copy of the governor's proclamation shall in any case be directed to the clerk of a county, unless the office of sheriff of such county shall then be vacant, nor to the first judge, unless the office of sheriff and clerk shall both be vacant.

Accounts. § 6. The accounts of the respective clerks of counties for services performed, and expenses incurred by virtue of this chapter, shall be audited, levied and paid in like manner as other contingent charges of such counties.

Pay of clerks of the poll. § 7. The clerks of the polls shall severally be allowed one dollar and twenty-five cents per day for their services under this act.

[See L. 1870, ch. 242, § 2, *post.*.]

Repeal. § 8. Chapter six of the first part of the Revised Statutes; the act entitled "An act directing the manner of choosing electors of president and vice-president," passed April 15, 1829; the act entitled, "An act to preserve the purity of elections," passed May 5, 1829; and the eleventh, twelfth, thirteenth, fourteenth and seventeenth sections of the act entitled "An act to preserve the purity of elections," passed May 7, 1839; "An act concerning elections in cities other than New York," passed May 26, 1841, and all other acts, and parts of acts inconsistent with the provisions of this act are hereby repealed; but such repeal shall not affect any act done or right accrued, or any proceeding, suit or prosecution for any offence, or for the recovery of any penalty or forfeiture.

Sections applicable. § 9. Sections seven, eight, nine and ten, of the act entitled "An act to preserve the purity of elections," passed May 7, 1839, shall be deemed applicable to elections for town officers only.

[Section 10 is omitted as temporary.]

L. 1847, Chap. 240—An act to amend the act entitled "An act respecting elections other than for militia and town officers," passed April 5th, 1842.

[Sections 1 to 14 amend the foregoing act of 1842.]

Certain persons not to vote. § 15. No person shall be permitted to vote at any election, who previous thereto shall have been convicted of bribery or of any infamous crime, unless he shall have been pardoned and restored to all the rights of a citizen, or who shall make any bet or wager, or be directly or indirectly interested in any bet or wager depending upon the result of any election, at which such person may offer to vote.

[L. 1872, ch. 113, § 1, providing that the prohibition to vote at any election contained in section fifteen of chapter two hundred and forty of the laws of eighteen hundred and forty-seven, shall not apply to a person heretofore convicted, or hereafter to be convicted of felony, or of any infamous crime, and in consequence thereof committed to one of the houses of refuge, or other reformatories organized under the laws of this state, was repealed by L. 1886, ch. 593.]

Penalty on inspectors. § 16. In case any inspector of election shall knowingly and wilfully permit or suffer any person to vote at any election who is not entitled to vote thereat, the said inspector so offending shall, on conviction thereof, be adjudged guilty of a misdemeanor, and shall be sentenced to pay a fine of five hundred dollars, and be imprisoned in the county jail for six months.

Electors to be questioned. § 17. The inspectors of any election in addition to the other questions to be put to any person offering to vote, when challenged under the act of the legislature of this state, passed April 5, 1842, entitled "An act respecting elections other than for militia and town officers," shall interrogate every such person as to his qualifications to vote under the present Constitution.

[Sections 18-21 amend the foregoing act of 1842. Section 22 is omitted as temporary.]

DIVISION SECOND.

ADDITIONAL PROVISIONS RELATING GENERALLY TO ELECTIONS.

[The charters of the cities, and various special acts relating to incorporated villages, contain provisions affecting the general election law in those localities.]

L. 1844, Chap. 331—An act to amend an act for the partial organization of the county of Hamilton, and for other purposes, passed April 22, 1837.

[Section 1 amends L. 1842, ch. 130.]

Canvass when and how to be made, etc. § 2. It shall be the duty of the board of canvassers in the county of Hamilton, to canvass all votes given in said county, in the same manner as though the said county was fully organized; and the said board of canvassers shall, after they have thus canvassed, transmit to the county clerk of the county of Fulton, a statement and certificate of all the votes for the office of governor, lieutenant-governor, senators, representatives in congress, and electors, and members of assembly, or either of them, under their signatures, and to be certified by the county clerk with his seal of office; and which shall be sent to the county clerk's office in the county of Fulton on or before the first Tuesday next following such election, by some person to be designated and appointed by the board of canvassers of the county of Hamilton.

Duty of board of canvassers of Fulton county. § 3. It shall be the duty of the county clerk and the board of canvassers of the county of Fulton to receive and canvass the votes thus transmitted to them, in the same manner as though each town in the county of Hamilton had sent its canvasser with the canvass.

L. 1855, Chap. 513—An act to regulate the number of ballots and ballot boxes to be used in the city and county of New York, and the mode of canvassing votes, throughout the state.¹

[Sections 1 and 2 are omitted as local.]

Canvass. § 3. All ballots shall, hereafter, in all the election districts in this state, be canvassed in the following order, as far as number five, inclusive, and in the city of New York through the entire list:

1. Electors of president and vice-president.
2. State officers, other than judiciary.
3. Members of congress.
4. State senators.
5. Members of assembly.
6. County and city (of New York) officers.
7. Town and charter officers.
8. State and county judicial officers.
9. Police and civil justices.

At the completion of the canvass of each box, the chairman of the inspectors of election shall make public oral proclamation of the whole number of votes in such box, and of the whole number given for each person, with the name of the office to which such person was named on the ballots.

[See § 3 of next following act.]

This act a part of electoral law § 4. This act shall be deemed a portion of the electoral law of the state, and any violation thereof shall be punished in the same manner as provided in the general statutes regulating elections.

Repeal. § 5. The act entitled "An act to regulate the number of boxes to be used at elections," passed March twenty-third, eighteen hundred and fifty-two,

¹ This statute, as far as it relates to the city of New York, repealed by L. 1881, ch. 537.

and all acts and parts of acts heretofore passed, so far as the same are inconsistent with the provisions of this act, are hereby repealed.

L. 1856, Chap. 79—An act prescribing the order in which the votes received at general elections, except in the city of New York, shall be canvassed, the manner of electing school officers in said city, and directing a republication of the election laws.

Votes, how canvassed. SECTION 1. Immediately after the final closing of the poll at all general elections hereafter to be held in this state, in the several election districts, except in the city of New York, the ballot boxes used at such elections shall be opened and the votes therein canvassed in the manner now provided by law, but as nearly as may be in the following order:

1. The box containing the ballots endorsed "Electors."
2. The box containing the ballots endorsed "State."
3. The box containing the ballots endorsed "Assembly."
4. The box containing the ballots endorsed "Judiciary."

If any other ballot boxes shall have been used at any such elections, in pursuance of law, such other boxes shall be opened and the votes therein canvassed immediately after those hereinbefore specified, in such order as the inspectors of elections at the several polls shall respectively determine.

[Section 2 repealed by L. 1881, ch. 537.]

Repeal. § 3. So much of the third section of the act entitled "An act to regulate the number of ballots and ballot boxes to be used in the city of New York, and the mode of canvassing votes throughout the state," passed April fourteenth, one thousand eight hundred and fifty-five, as is inconsistent with the provisions of this act, is hereby repealed.

[Section 4 is omitted as temporary.]

L. 1861, Chap. 307—An act authorizing and requiring inspectors of elections and other officers to take certain affidavits required by the registry law.

Inspectors may administer oaths to voters. SECTION 1. At any annual, state or city, election hereafter held in this state, any of the inspectors of such election may take the affidavit now required by law, to be furnished by persons offering to vote whose names are not on the register of electors; and such inspectors, or one of them, shall, upon request, take and certify such affidavit without fee or reward. All other officers authorized by law to take affidavits shall, at all times, upon request, take and certify any affidavit so required to be furnished as aforesaid, without any charge therefor.

L. 1864, Chap. 253—An act to enable the qualified electors of this state, absent therefrom in the military service of the United States, in the army or navy thereof, to vote.

Absent electors in military service entitled to vote. SECTION 1. In time of war, every elector of the state of New York in the actual military service of the United States, in the army or navy thereof, who shall be absent from the state of New York on the day of election, shall be entitled to vote at any general or special election held in this state, in the manner and form following.

Instrument to be executed by absent elector; how attested and sworn to. § 2. Such absent elector shall, by an instrument executed by him not more than sixty days previous to any general or special election to be held in this state, authorize and empower any elector of the town or city where the said absent elector shall reside, on the day of said election, to cast for him his vote or ballot, in the manner prescribed by this act, for all officers for whom he would have a right to vote if he were present at such election; such instrument shall be signed by such absent elector, attested by a subscribing witness and sworn to before any field officer, captain, adjutant, or commandant of any company or detachment on detached service, in the service of the United States, and commissioned as officers in the volunteer force of the state of New York, or the captain or commandant of any vessel in the naval service of the United States, to which the said absent elector may belong or be attached; and such officers are hereby duly authorized to administer oaths for the purposes specified in this act, and they shall attach to their signatures, their official designations.

Affidavit to be made by absent elector. § 3. The said absent elector shall make and subscribe the following affidavit: "I, A. B., do solemnly swear (or affirm) that I have been a citizen of the United States for ten days, am now of the age of twenty-one years, that I have been or shall have been an inhabitant of the state of New York for one year next preceding the election to be held on the day of 186 , for the last four months a resident of the county of , for thirty days next preceding said election a resident of the town (or city) of , and that I am now and until said election intend to be a resident thereof; that I have not made any bet or wager, and am not directly or indirectly interested in any bet or wager depending upon the result of said election, and I do further swear that I am in the actual military (or naval) service of the United States, that I am now a member of company of the regiment (describing the organization to which he belongs), now at or near , in the state (or territory) of (or attached to the United States vessel).

Sworn to and subscribed this day of 186 , before me.

Ballot, how prepared. § 4. The said absent elector in the service as aforesaid shall prepare and fold the ballot or ballots he designs to cast at such election, and inclose the same, together with the instrument described in the second section of this act, in an envelope duly sealed, having on the outside thereof, either written or printed, the affidavit prescribed in the third section of this act, sworn to and subscribed as therein required. The said envelope, prepared as aforesaid, shall be enclosed by him in another envelope, marked "soldier's vote," sealed and directed to the elector empowered by the instrument described in the second section of this act, to cast the ballot of said absent elector; and the said absent elector may then transmit the same to the person to whom it is directed, by mail or otherwise.

Duty of elector to whom ballot is sent; duty of election inspectors; affidavit by householder; when ballots to be rejected. § 5. Such elector, upon receiving such letter from such absent elector, may open the outer envelope thereof, but he shall not open the inner envelope thereof. On the day of such election, and between the opening and close of the polls thereof, he shall deliver such inner envelope to the inspectors of elections of the proper election district, and at the polls thereof; and if the name of the person signing the affidavit, on the outside of said envelope, shall be found entered upon the register of electors of such election district as a duly qualified voter therein, said envelope shall be by said inspectors publicly opened, and the votes or ballots therein contained shall be duly deposited in the appropriate boxes prepared to receive the ballots of voters, and the name of such absent elector shall be entered upon the poll lists, together with the name of the person delivering the ballot at the polls. If such name shall not be found entered upon the register of electors of such district where such person claims to reside, such envelope shall not be opened unless an affidavit be made by a householder of the district, to the effect that he knows that said person whose vote is

so offered is a resident of said district. If such affidavit be made and delivered to the inspectors, they shall open said envelope and deposit the votes or ballots therein contained as aforesaid, and the name of the person so voting shall be entered upon the poll lists together with the name of the person delivering the ballot at the polls. The ballots contained in any such inner envelope, which shall have been opened or unsealed before the same shall have been laid before the board of inspectors of election, shall not be deposited in any ballot box at such election, but shall be rejected.

Affidavits, etc., to be filed. § 6. The affidavits and instruments described in the second and third sections of this act, and all envelopes containing "soldier's votes," not opened at such election, shall be kept and filed by the inspectors of election in the same manner and place as the poll lists of such election are required by law to be kept and filed.

Person receiving ballot from absent elector to give receipt. § 7. Every person who shall be entitled to receive any letter or envelope marked as herein provided, before he shall take away the same, shall sign and deliver to the postmaster or his deputy or clerk, a receipt therefor, which receipt shall specify how many such letters or envelopes he has received, and otherwise, as far as may be, specify the particulars of the description thereof. And any willful omission to comply with the provisions of this section shall be adjudged a misdemeanor, and any person convicted thereof shall be punished accordingly.

When electors to whom ballots are sent to be deemed guilty of misdemeanor. § 8. Any inspector of election, and any elector to whom said ballot shall be sent, who shall willfully neglect or refuse to perform any of the duties required of him by this act, or in any manner willfully violate or abuse any trust or duty hereby imposed on him, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not less than two hundred and fifty dollars, and by imprisonment in the county jail not less than four months.

Perjury. § 9. Every person who shall be guilty of wilful and corrupt false swearing or affirming in taking any oath or affirmation prescribed by this act, shall be adjudged guilty of wilful and corrupt perjury; and every person who shall make or sign a false certificate to any instrument or affidavit authorized by this act, shall be deemed guilty of a misdemeanor.

Penalty for delivering forged, altered or changed ballot. § 10. Every person who shall deliver or present to the inspectors of elections under this act, any forged, altered or changed ballot, envelope or instrument required or provided for by this act, knowing the same to be so forged, altered or changed, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than two hundred and fifty dollars, and by imprisonment in the county jail not less than four months.

General laws applicable. § 11. All provisions of the laws of this state relative to general or special elections not inconsistent with any of the provisions of this act, shall apply thereto.

Duty of secretary of state. § 12. The secretary of state is hereby authorized and required to prepare and have printed the necessary blank forms and envelopes required to carry out the provisions of this act, and shall cause the affidavits required by the third section of this act to be printed in blank upon proper envelopes, to contain the instrument required by the second section of this act, and shall, at least two months previous to any general or special election, cause such blank forms, envelopes, and copies of this act to be forwarded to the several regiments from this state in the service of the United States in the field, and to the several hospitals, posts and naval stations, in sufficient quantity to furnish one copy of each blank form, envelope, and copy of this act to each person in the actual military service of the United States, in the army or navy thereof, from this state, and absent therefrom. The sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to defray the expenses authorized by this section.

Penalty for bribery or intimidation of absent elector. § 13. Any officer of this state, or of the United States, or any other person, who shall, directly or indirectly, control, or attempt to control, any such enlisted elector in the exercise of any of his rights under this act, by menace, bribery, fear of punishment, hope of reward, or any other corrupt or arbitrary measure or resort whatever, or to annoy, injure or otherwise punish any such officer or man, for the manner in which he may have exercised any such right, shall be deemed guilty of an offense against the sovereignty of this state, which shall be punished as a misdemeanor, and for which he may be indicted and tried at any future time, when he may be found within the limits of this state; and, upon conviction, he shall be imprisoned for a term not exceeding one year, and fined in a sum not exceeding one thousand dollars, and he shall also thenceforth be ineligible, after conviction thereof, to hold any office in this state.

L. 1870, Chap. 134 — An act authorizing persons residing on Indian lands to vote in the nearest election district.

Electors residing on Indian lands. SECTION 1. Any person residing on the lands of any nation or tribe of Indians in this state, being a qualified voter, shall be entitled to vote in the election district nearest the place of residence of such person, in the same town, at any election held therein, whether such Indian lands shall be included in the said election district or not, and such person or persons shall have the same right to register his or their names as voters, and shall possess the same right to vote in such adjoining district, as if actually residing therein.

L. 1870, Chap. 388 — An act to amend the laws relating to elections.

Oaths of colored men offering to vote. SECTION 1. All laws or parts of laws which direct or require the registers or inspectors of elections or other officers of elections, to tender to or to require of a colored man offering to vote, whether when challenged or not challenged, any oath other than or different from the oath which they are directed or required to tender to or to require of a white man in like cases, are hereby repealed; and all laws or parts of laws which direct or require the registers or inspectors of election to interrogate a colored man offering to vote, or when offered as a witness as to the qualifications of other voters, whether when challenged or not challenged, by putting to him questions or requiring answers other than those prescribed to be put to or required from a white man, under like circumstances, are hereby repealed, and it shall not be lawful for the registers or inspectors of elections to tender to or administer to a colored man any oath, or to put any questions or require any answers other than such as, under like circumstances, it is lawful to tender, administer, put to or require from a white man.

Election and registry laws to be uniform to all voters. § 2. It shall not be lawful for the registers, inspectors, canvassers, or other officers of election to reject the name from the registry, or the vote of any colored man, except for like causes as would make it their duty to reject the name or the vote of a white man.

Penalty for violating this act. § 3. Any register, inspector, or other officer of elections offending against the provisions of this act, shall, upon conviction, be adjudged guilty of a misdemeanor, punishable by a fine of five hundred dollars and imprisonment for six months.

L. 1871, Chap. 712 — An act in relation to the election of representatives in congress, senators and members of assembly.

Separate ballot boxes for congress, senate and assembly; form of ballots; order of canvass. SECTION 1. At each annual or special election at which a representative in

congress, senator or member of assembly is hereafter to be elected, the inspectors in the several election districts in this state shall provide and keep a separate box in which all ballots for representatives in congress, to be indorsed "Congress," shall be deposited; also a separate box in which all ballots for senator, to be indorsed "Senate," shall be deposited; and also a separate box in which all ballots for member of assembly, to be indorsed "Assembly," shall be deposited; and the ballots deposited in said several boxes shall be estimated and canvassed in the order named above, respectively, and immediately following the estimate and canvass of the ballots indorsed "State."

Repeal. § 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

L. 1873, Chap. 474—An act requiring county clerks to transmit to the secretary of state certified copies of the official county canvass.

County clerks to transmit copy of canvass. SECTION 1. It shall be the duty of the clerk of each county in the state to transmit by mail to the secretary of state on or before the fifteenth day of December in each year, a certified copy of the official canvass of the votes cast in said county, by election districts, at the then next preceding general election.

L. 1880, Chap. 56—An act to promote honest elections.

Elections; who shall be eligible as inspectors. SECTION 1. No person shall be eligible to the office of inspector of election or clerk of the poll, or be qualified to act as such, unless he can read and write the English language.

Misdemeanor. § 2. It shall be a misdemeanor for any person not possessing such qualifications to act as an inspector of election or clerk of the poll.

Elections to be public. § 3. The election at every poll shall be public to the watchers hereinafter provided for, from its commencement to the close of the canvass and signing of the proper returns and copies thereof.

Watchers; privileges and duties. § 4. Every political organization which shall present a candidate or candidates for the suffrages of the voters of any election district, shall have the right to appoint, not to exceed two electors, as watchers at the poll of such election district for every election. Such appointment may be evidenced by a written or printed appointment, signed by the president or the chairman and the secretary of such political organization, but no ward or town organization shall be entitled to watchers at any poll outside the limit of such ward or town.

Id.; rights. § 5. Said watchers and each of them shall be entitled to be present at such election in the room occupied by the inspectors of election, commencing at least fifteen minutes before any ballot-box shall be opened, until the close of the canvass, and the signing of the proper returns of such election.

Ballot-boxes to be examined. § 6. At every election immediately before any ballots are received by the inspectors of election, or any of them, said inspectors shall unlock every ballot-box used, or to be used, at such election, and permit each watcher present to examine said ballot-box, and every part and portion thereof, until he is satisfied as to the structure thereof, and that there is, at the commencement of receiving ballots, no ballots therein.

Further rights of watchers. § 7. Every watcher shall have the right, from the time of so inspecting said ballot-box or boxes, at any and all times until the canvass of the ballots and signing of the proper returns and copies thereof, to be present in the room occupied by said inspectors, in a position and place where he may fully, conveniently, and comfortably watch the reception and deposit of

every ballot cast at such election, and the full and final canvass of the ballots, and signing of the proper returns and copies thereof; and no ballot-box or ballot cast, except it be in the ballot-box, shall be removed from the constant sight and inspection of such watchers, until the canvass is closed and the proper returns and copies thereof made and completed.

Boxes, how to be placed. § 8. Every ballot-box shall be so placed, at a window or elsewhere, that the voter depositing any ballot and each watcher may conveniently see every ballot received by the inspectors and deposited in the ballot-box.

Id. § 9. No screen or other obstruction to such view of any ballot-box by the voter or any watcher shall be allowed.

Watchers may examine ballots. § 10. If requested by any watcher or any elector present at any canvass, it shall be the duty of the inspectors of election, and each of them, to exhibit any and all ballots cast at such election to such watcher or elector fully opened, and in such a condition and manner that he may fully and carefully read and examine the same, though said inspector shall not allow any such ballot to be taken from his hand.

How returns shall be made. § 11. Every return or statement of the result of the canvass of any election shall be made upon a single sheet of paper, or if not, each half-sheet shall be signed at the end thereof by the inspectors.

Size of poll room. § 12. The room used for the reception of ballots shall be of a reasonable size, so as to admit at all times at least twelve electors, including the watchers, exclusive of the inspectors of election and clerks of the poll.

Challenges. § 13. Any watcher or other elector may challenge the right of any person offering to vote at any election, and the name of the person so challenging shall not be disclosed by any inspector of election or clerk of the poll, unless required so to do by a court of justice or magistrate in some legal proceeding.

Manner of making returns. § 14. The inspectors of election of each election district shall, within twenty-four hours after the completion of the canvass, in addition to the making and filing of the returns and statements thereof now directed and required by law, cause a duplicate of such return or statement to be filed in the office of the clerk of the county. One of their number may be deputed by them to, and may file the same, and he shall be paid for so doing, except in cities and towns where the county clerk's office is situated, the sum of five dollars, and also four cents a mile for each mile actually and necessarily traveled by the usual route in going to and returning from the said county clerk's office, to be audited, allowed and paid in the same manner as for other services of said inspectors.

Returns open to inspection of all. § 15. The returns or statements of election on file in county, town and city clerk's offices shall be public records and open to inspection and examination by any elector of the state.

Inspector, etc., not to distribute tickets. § 16. No inspector of election or clerk of the poll, who shall act as such during any portion of any election, shall peddle, distribute or give tickets to electors, during any part of the day of such election.

Sale of liquors prohibited. § 17. No lager beer, ale, wine, or spirituous liquors shall be allowed on any election day in any room used for election purposes.

Penalty for false returns. § 18. Every inspector of election or clerk of the poll who shall intentionally make, or attempt to make, any false canvass of the ballots cast at an election, or shall intentionally make, or attempt to make, any false statement of the result of any canvass, though not signed by a majority of the inspectors of election, shall be guilty of a felony, and be punished by imprisonment in the county jail or a penitentiary, not exceeding one year, or in the state prison, not exceeding five years.

Bribery of inspectors. § 19. Any person who shall induce, or attempt to induce, any inspector of election, or clerk of the poll to do any act forbidden by the last section shall be guilty of a felony, and be punished in the same manner and to the same extent.

Penalty for neglect to comply with provisions of act. § 20. Every inspector of election, or clerk of the poll, who shall intentionally omit, neglect or refuse to do any act required by this act, and every inspector of election, clerk of the poll, policeman, member of any police force or other person who shall intentionally refuse to permit the doing of any act hereby allowed to be done by any watcher or elector, or shall intentionally prevent, or attempt to prevent, the doing thereof, or shall intentionally do any act forbidden by this act, except in sections eighteen and nineteen thereof, shall be guilty of a misdemeanor, and be punished by imprisonment in a county jail or penitentiary for not exceeding one year, or by a fine of not exceeding two hundred and fifty dollars, or by both such fine and imprisonment.

Act to apply to all elections. § 21. This act shall apply to all elections general or special, including town elections in all towns and charter elections in all of the cities and incorporated villages of this state. Where the charter of any village shall provide that the trustees, or any officer or officers thereof, may or shall, ex-officio, be inspectors of any charter election therein or therefor, said trustees or officers may so act, notwithstanding they do not possess the qualifications required by section one hereof, and section two shall not apply to their so acting.

Meaning of word inspector. § 22. Wherever the word inspector appears in this act it shall be taken to include and mean all officers who, under any law of this state, shall be required to canvass votes.

L. 1880, Chap. 366—An act to secure uniform ballots and preserve the purity of elections.

Ballots must be on plain paper and uniform. SECTION 1. At all elections hereafter held within the limits of this state for the purpose of enabling electors to choose by ballot any officer or officers under the laws of this state, or of the United States, or to pass upon any amendment, law or public act or proposition submitted to the electors to vote by ballot under any law, each and all ballots used at any such election shall be upon plain white printing paper, and without any impression, device, mark or other peculiarity whatsoever upon or about them to distinguish one ballot from another in appearance, except the names of the several candidates, and they shall be printed with plain black ink.

Caption. § 2. Every ballot shall have a caption (as provided by law), but such caption shall be printed in one straight line in black ink, with plain type of the size now generally known and designated as "Great Primer Roman Condensed capitals," and the names of all candidates shall be printed in plain type, with letters of a uniform size.

Unlawful to distribute other ballots. § 3. It shall be unlawful for any person to print or distribute, or to cast any ballot printed or partly printed contrary to the provisions of this act, or to mark the ballot of any voter, or to deliver to any voter such marked ballot for the purpose of ascertaining how he shall vote at any election.

Penalty. § 4. Any person or persons who shall knowingly or willfully violate, or attempt to violate, any of the provisions of this act shall be guilty of a misdemeanor, and be punished by imprisonment in a county jail or penitentiary for not exceeding one year, or by a fine of not exceeding two hundred and fifty dollars, or by both such fine and imprisonment.

Repeal. § 5. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed, provided that nothing in this act contained shall be construed to prohibit any elector from voting any ballot entirely written or from voting any printed ballot, which in outward appearance complies with all the requirements of this act upon the face of which he has personally made or caused to be made erasure, correction or insertion of any name by pencil mark or otherwise.

L. 1880, Chap. 460 — An act to extend the authority of the supreme court in proceedings by writ of mandamus, to correct errors in the determination of boards of county canvassers.

Extending authority of supreme court in proceedings by writ of mandamus. SECTION 1. Whenever it shall appear by affidavit that errors have occurred in the determination of the board of county canvassers in any county in this state, the supreme court may, by order, require said board to correct such errors, or show cause why such correction should not be made, and in the event of the failure of said board to make such correction, or show cause as aforesaid, the said court may compel said board by writ of mandamus to correct such errors; and if such board of county canvassers shall have made its determination and dissolved, such court may compel it to reconvene for the purpose of making such corrections. For the purpose of making such corrections as the court shall order, the meeting of the board of county canvassers shall be deemed a continuation of its regular session, and the statement and certificates shall be made and filed as the court shall direct; and so far as the same shall vary from the original certificates and statements, the statements and certificates made under the order of the court shall stand in lieu thereof, and shall in all places be treated with the same effect as if such corrected statement had been a part of the original required by law.

Practice. § 2. The practice in such proceedings in mandamus shall be the same as in cases of mandamus against a board of supervisors, and for the purpose of service of papers and other proceedings, the board of county canvassers, as organized and existing at the time of making the original canvass, shall be deemed a continuing board.

12 Abb. N. C., 78, 84, 95, 103; 91 N. Y., 616; 46 Hun, 390.

DIVISION THIRD.

CERTAIN JUDICIAL ELECTIONS.

L. 1847, Chap. 276—An act to provide for the election of certain judicial and other officers, and to fix their term of office.

First election of judges of court of appeals. SECTION 1. The first election of judges of the court of appeals, the justices of the supreme court, the county judges in the respective counties (the city and county of New York excepted), the district attorneys of the respective counties, and all other judicial officers, whose election shall be provided for by this act, shall be elected on Monday, the seventh day of June next.

Surrogates when to be elected. § 2. There shall be elected a separate officer, to perform the duties of the office of surrogate, in each of the counties of this state (except New York), having a population exceeding forty thousand, in which such separate officer shall be determined upon, as hereinafter provided.

Recorders to be elected in all the cities except New York; duration of office. § 3. There shall be elected, by the electors of each of the cities of this state (except the city and county of New York), in which the office of the recorder existed on the thirty-first day of December, eighteen hundred and forty-six, one recorder, who shall hold his office for four years from the first day of January next; and the respective recorders who shall be in office at the time this act shall take effect (except in the city and county of New York), shall continue such recorders until the first day of January next; and all such recorders as shall hereafter be elected, shall hold their office for four years from and after the first day of January succeeding their election.

Box to receive ballot for recorder. § 4. It shall be the duty of the inspectors of election, in such cities as shall elect a recorder, to provide a separate box; and the name of the person voted for, for the office of recorder, shall be on one ballot, which shall be indorsed "City," and shall be deposited in the said box.

Box to be provided for "Judiciary" ballots. § 5. The names of all other persons voted for by any elector at any election, as provided for by this act, shall be upon one ballot, which shall be indorsed "Judiciary," and which ballots shall be received and deposited by the board of inspectors of elections, in a separate box kept for that purpose; and in all other respects, all the provisions of the Constitution and laws respecting the qualifications, disabilities and privileges of electors, and manner of voting, and of conducting the elections at a general election, shall be applicable to the election of the officers specified in this act.

General laws applicable. § 6. All laws relating to general elections shall be deemed to apply to the election authorized by this act, so far as the same shall be applicable, but the notice of said election shall be given and published as soon as may be, after the passage of this act, and until such election; and no such election shall be invalid by reason of the omission to give any such notice.

Duty of state canvassers. § 7. The board of state canvassers shall meet at the office of the secretary of state, in the city of Albany, on the twenty-second day of June next, to canvass and determine the election of judges and clerk of the court of appeals, and of the justices of the supreme court, and shall be composed of the same persons as now provided by law; and shall be authorized and empowered to adjourn from time to time, in like cases, and in the same manner as now directed by law.

Duty of board of supervisors. § 8. In all cases where any county in this state (except the city and county of New York), shall have a population exceeding forty thousand, the board of supervisors therein, at any meeting of such board, may, by a resolution thereof, provide for the election of an officer other than the county judge, who shall perform the duties of the office of surrogate therein.

Resolution to be filed in county clerk's office. § 9. Such resolution shall be immediately delivered by the clerk of the board of supervisors, to the county clerk, whose duty it shall be to file the same in the office of the clerk of such county, and keep the same as a part of the records thereof.

Also transmitted to secretary of state. § 10. Within ten days after such resolution shall be filed in the office of any such county clerk, he shall transmit to the secretary of state, to be filed and kept in his office, a copy of such resolution, duly certified by him.

Boards of supervisors to meet on 25th May, 1847; to fix salaries; in certain cases may separate office of county judge and surrogate; not to apply to certain counties. § 11. The boards of supervisors in the several counties of this state, (except New York,) shall meet at the office of the county clerk in their respective counties, on the twenty-fifth day of May instant. When so convened, they shall fix the salary of the county judge, and in the proper counties, of the separate officer elected to perform the duties of the office of surrogate. They shall also, at the same meeting, in those counties having a population exceeding forty thousand, determine whether the office of county judge and surrogate shall be separate, and if separate, they shall fix the salary of such separate officer. But this section shall not apply to counties having a population less than forty thousand, the board of supervisors whereof have already fixed the salary of the county judge; nor to those counties having a population exceeding forty thousand, the boards of supervisors whereof have already determined whether to have a separate officer as aforesaid, and have fixed the salary of said officer, if such separate officer shall have been determined upon, and shall have fixed the salary of the county judge; and the act of the board of supervisors, fixing the salary of a separate officer to perform the duties of the office of surrogate in any county in which said officer shall be elected by the Constitution, and the provisions of this act is hereby confirmed, and shall be deemed as valid, as if the same had been fixed in pursuance of this act.

When county judges and surrogates to enter upon their duties. § 12. The separate officers elected to perform the duties of the office of surrogate, and the local officers to discharge the duties of county judge and of surrogate, and elected at the election provided for in this act, shall enter upon their duties on the first Monday of

July next, and hold their offices for the term of four years from the first day of January next; and after the expiration of the term of office of those first elected, the term of office of said officers shall be four years.

Separate officer to perform duties of surrogate. § 13. Whenever the office of county judge shall be vacant in a county having a population exceeding forty thousand, or the term of office of such judge shall be about to expire, the board of supervisors of that county, if there be a separate officer to perform the duties of the office of surrogate in said county, may resolve that there shall be no such separate officer in said county, and thereupon the office of such separate officer shall be deemed vacant and abolished from the time that the term of office of said separate officer shall expire; or if there be no such separate officer, said board may resolve that there shall be such separate officer in such county, in which case such separate officer shall be elected at the time, and in the manner in all respects, and for the same term that the county judge in said county shall be elected; and the said county board may at the same time alter the salary of the county judge and fix the salary of such separate officer, but no alteration of the salary of a county judge shall be made to take effect during the continuance of his term of office. Every person elected pursuant to this act, or the act hereby amended, shall have power to take affidavits, and the proof and acknowledgment of deeds and other instruments in writing, with the same force and effect as if taken by a county judge, and for which he may charge the same fees. [*Thus amended by L. 1851, ch. 175.*]

Separate officer to be termed "surrogate." § 14. Separate officers elected to perform the duties of the office of surrogate, under the fourteenth section of article six of the Constitution, shall be denominated "surrogate" of their respective counties.

[Sec. 15 was repealed by L. 1877, ch. 417.]

L. 1851, Chap. 175—An act to provide for the election of a separate officer to perform the duties of the office of surrogate in certain counties, and to increase his powers and duties.

[Sec. 1 amends L. 1847, ch. 276, § 13.]

Resolution to be filed in county clerk's office. § 2. Every resolution providing for the election of or dispensing with such separate officer shall be immediately delivered by the clerk of the board of supervisors to the county clerk, whose duty it shall be to file the same in his office, and keep the same as a part of the records of such county, and within ten days after such resolution shall be filed in the office of any such county clerk, he shall transmit to the secretary of state to be filed and kept in his office, a copy of such resolution duly certified by him.

Bonds with whom to be filed. § 3. All bonds given by any executor or administrator, or any other person, which by law are required to be filed with the surrogate or in the surrogate's office of any county, shall be proved or acknowledged by the parties executing the same as deeds are now required by law to be proved or acknowledged, before the same shall be received by the surrogate or person performing the duties of surrogate.

L. 1870, Chap. 86—An act to provide for an election of chief judge and associate judges of the court of appeals, and judges of the court of common pleas of the city and county of New York.

[Sections 1-3 are omitted as temporary and are now obsolete; § 8 repealed as to New York city by L. 1881, ch. 537.]

Successors, when and how chosen; vacancies, how filled. § 9. When the official term of any justice or judge of the courts mentioned in the last preceding section, except county judges, will expire at the close of any year, by the effluxion of time

or the disability of age, the successor of such justice or judge shall be chosen at the preceding general election. Vacancies otherwise occurring in the said offices shall be filled in the manner prescribed in the ninth section of said sixth article of the Constitution

[The judges mentioned in § 8 are judges of the court of appeals, and of the supreme, superior, and county courts.]
32 Hun, 442.

L. 1871, Chap. 859—An act to provide for the election of certain judicial and other officers, and to fix their terms of office.

Time of holding election; powers and duties; not to affect election of county judge of Greene county; legalized and confirmed. SECTION 1. There shall be elected at the next general election a county judge, in the respective counties of this state, where the term of the present county judge shall expire on the first day of January, one thousand eight hundred and seventy-two, and in the counties in which the term of the present county judge does not expire on that day, then at the general election preceding the date on which such term shall expire (except in the counties of New York and Kings), who shall hold office for six years, and shall perform all the duties, possess all the powers now conferred upon county judges, or which may hereafter be conferred, and shall perform all of the duties which are now or may be hereafter imposed by the laws of this state; provided, however, that nothing in this act contained shall affect the election of county judge of the county of Greene, had at the general election in the year eighteen hundred and seventy, and the said election of said county judge is hereby legalized and confirmed for the full term of six years from the first day of January, eighteen hundred and seventy-one.

Time for election of surrogate; population to exceed forty thousand. § 2. There shall be elected at the next general election a separate officer to perform the duties of the office of surrogate in each of the counties of this state, where the term of the present surrogate shall expire on the first day of January, one thousand eight hundred and seventy-two, and in counties in which the term of the present surrogate does not expire on that day, then at the general election preceding the date on which such term shall expire, and in counties having a population exceeding forty thousand, in which such separate officer shall be determined upon as hereinafter provided.

May by resolution provide for election of a person to perform duty of surrogate. § 3. In all cases where any county in this state (except the counties of New York and Kings) shall have a population exceeding forty thousand, the board of supervisors therein, at any meeting of such board, special or regular, called in the usual form, may by resolution thereof provide for the election, at the following general election, of any officer other than the county judge who shall perform the duties of surrogate therein.

Resolution to be filed; copy of resolution to be transmitted to secretary of state; supervisors to fix salary of county judge and surrogate. § 4. Such resolution shall be immediately delivered by the clerk of the board of supervisors to the county clerk, whose duty it shall be to file the same in the office of the clerk of said county, and keep the same as a part of the records thereof. Within ten days after such resolution shall be filed in the office of such county clerk, he shall transmit to the office of the secretary of state, to be filed and kept in his office, a copy of such resolution, duly certified by him. The board of supervisors in the several counties of this state (except New York and Kings) shall, at the annual meeting in the year eighteen hundred and seventy-one, fix the salary of the county judge, in those counties where the salary has not been fixed since the adoption of the sixth article of the Constitution, and in counties in which surrogates shall be elected, they shall fix the salary of the surrogate, which salaries shall not be less than the salaries now paid such officers, respectively.

When to enter upon their duties. § 5. The separate officer elected and performing the duties of the office of surrogate, and the legal officer discharging the duties of county judge and of surrogate, and elected at the election provided for in this act, shall enter upon their duties on the first day of January next after such election, and shall hold their office for the term of six years from said first day of January; but where such officer shall be elected to fill a vacancy, then they shall enter upon the discharge of the duties of the office to which they have been elected, immediately upon the receipt of the certificate of such election.

40 Hun, 361; 102 N. Y., 430.

Vacancies; to be abolished or filled by supervisors. § 6. Whenever the office of county judge shall be vacant in a county having a population exceeding forty thousand, the board of supervisors of that county, if there be a separate officer to perform the duties of the office of surrogate in said county, may resolve that there shall be no such officer in said county, and thereupon the office of such officers shall be deemed vacant and abolished from the time the office of county judge shall be filled; and if there be no such officer, such board may resolve that there shall be such officer in such county, in which case such officer shall be elected at the time and in the manner in all respects that the county judge in said county shall be elected.

[Sections 7 and 8 were repealed by L. 1880, ch. 245.]

Vacancies, except in New York or Kings. § 9. When a vacancy shall occur in the office of any county judge or surrogate in any of the counties of this state (except New York and Kings) from any cause before the expiration of term, the office shall be filled for a full term of six years at the next general election, happening not less than three months after such vacancy occurs. And until any vacancy shall be so filled, the governor, by and with the advice and consent of the senate, if the senate shall be in session, or, if not in session, the governor, may appoint to fill such vacancy, and such appointment shall continue until and including the last day of December following such appointment, and that the election of county judge of the county of Livingston, had at the general election in the year 1878, is hereby legalized and confirmed for the full term of six years, commencing the first day of January, 1879. [*Added by L. 1881, ch. 613, and thus amended by L. 1886, ch. 164.*]

DIVISION FOURTH.

REGISTRY LAWS.

[This division contains all the registry laws of general application, supposed to be now in force. The original law on this subject, L. 1859, ch. 380, has never been formally repealed, but it is practically superseded by subsequent acts, and is omitted from the official compilation of the election laws.

The registry law now in force in the city of New York, is contained in chapter 24 of the consolidation act, L. 1882, ch. 410; the one in force in Brooklyn is contained in L. 1884, ch. 519. See also the Brooklyn consolidation act, L. 1888, ch. 583. Each of those statutes is, by its terms, local, and contains provisions affecting other matters besides those directly relating to registry, and they have been consequently omitted. With the exception of those two cities, the statutes given in this division apply throughout the state, where their application is not restricted by their own terms, or by subsequent special and local acts.]

L. 1872, Chap. 570—An act to ascertain, by proper proofs, the citizens who shall be entitled to the right of suffrage in the state of New York, except in the city and county of New York and the city of Brooklyn, and to repeal chapter five hundred and seventy-two of the laws of eighteen hundred and seventy-one, entitled "An act to amend an act entitled 'An act in relation to elections in the city and county of New York.'"

Inspectors to form board of registry; annual meeting for organization. SECTION 1. The several inspectors who now are or who may be hereafter elected or appointed

inspectors of election, for the several election districts in the towns and cities of this state, except in the city and county of New York and in the city of Brooklyn, for the year eighteen hundred and seventy-two, are hereby declared to be a board of registry of elections under this act; and for the purposes herein named, the said inspectors, and their successors in office, shall meet annually, on Tuesday, five weeks previous to the general election, at nine o'clock in the forenoon, at the place designated for holding the poll of said election, and organize themselves as a board for the purpose of registering the names of the legal voters of such district, and shall sit until nine o'clock in the evening of each day; and for this purpose they shall appoint one of their number chairman of the board, who shall administer to the other inspectors the oath of office, as prescribed by the Constitution, and the same oath shall then be administered to the chairman by one of the other inspectors. The said board shall then proceed to make a list of all persons qualified and entitled to vote at the ensuing election, in the election districts of which they are inspectors. Said list, when completed, shall constitute and be known as the register of electors of said district. The said inspectors, at their first meeting on Tuesday, five weeks preceding the general election, shall have power, if necessary, to sit two days for the purpose of making said list, provided that, at the annual election next prior to said meeting, the number of votes in the district of which they are inspectors exceeded four hundred. [*Thus amended by L. 1880, ch. 465.*]

62 N. Y., 186.

What registers to contain; what names to be entered; in case of new election district four copies to be made; original list to be filed; each inspector to keep a copy; one copy to be posted. § 2. Said registers shall each contain a list of persons so qualified and entitled to vote in said election district, alphabetically arranged according to their respective surnames, so as to show in one column the name at full length and in another column in cities and incorporated villages, the residences by the number of the dwelling, if there be a number, or if the person be an occupant of a tenement house occupied by several persons, or a lodging place, then they shall also enter the number of the room, if any, and the floor or story of said tenement or lodging-house occupied by said person, and the name of the street on which said dwelling-house, tenement or lodging place is located. It shall be the duty of said inspectors to enter in said lists the names of all persons residing in their election districts whose names appear on the poll-list kept in said district at the last preceding general election, and for this purpose said inspectors are authorized to take from the office in which they are filed, the poll-list made and filed by the inspectors of such district at the general election held next prior to the making of such register. In case a new election district shall be formed, the said inspectors shall enter in the list the names of such persons entitled to vote in the new election district, whose names appear upon the poll-list of the last general election, kept in the district or districts from which said new election district is formed. The said inspectors shall complete, as far as practicable, the said register on the day or days of their meeting aforesaid, and shall make four copies thereof, and certify the register and each of the copies to be a true list of the voters in their district, so far as the same are known to them, within two days thereafter. The said original list, with the list taken from the office as aforesaid, shall be filed in the office of the town clerk of the town or city clerk of the city in which said election district may be, and one copy of said list shall be kept by each of said inspectors, and be carefully preserved by him for their use on the day or days hereafter mentioned for revision and correction of the same. One copy of said list shall, immediately after its completion, be posted in some conspicuous place in the room in which such meeting shall be held, and be accessible to any elector who may desire to examine the same or make copies thereof.

Meeting to correct lists. § 3. The said boards of inspectors shall meet on the Tuesday of the week preceding the day of the general election, at the places designated for holding the polls of election, for the purpose of revising and correcting said lists; and for this purpose, in cities, they shall meet at eight

o'clock in the morning, and remain in session until nine o'clock in the evening of that day and the day following, and in other districts they shall meet at nine o'clock in the morning, and remain in session until nine of that day. And they shall then revise, correct, add to and subtract from, and complete the said lists, and shall on that day add to the said list the name of any person who would, on the first Tuesday succeeding the first Monday of November, be entitled, under the provisions of the Constitution and laws of this state, to exercise the right of suffrage in their respective election districts. But in making such addition on that day, or on any prior day, they shall not place on the said list the name of any person, except in strict compliance with the provisions of section two and section four hereof, and the other provisions of this act. [*Thus amended by L. 1880, ch. 465.*]

(L. 1880, ch. 465, § 3. In case of any wilful neglect, omission or refusal by said board to do any of the acts required by this act,* the supreme court of this state shall have power to compel said board to meet on any day between the day herein fixed for the first meeting of said board and the day of election and to perform the act or acts so omitted, neglected or refused, but no member of said board shall receive any compensation for attendance at any meeting under the provisions of this section.)

Proceedings to be open and voters to be heard; one list to be used for making corrections; naturalized citizen to produce certificate. § 4. The proceedings of said board of inspection shall be open, and all persons residing and entitled to vote in said district shall be entitled to be heard by said inspectors, in relation to corrections or additions to said register. One of the lists so kept by said inspectors as aforesaid, shall be used by them on the day or days for making corrections or additions for the purpose of completing the registers for such district. No addition shall be made to the said register of the name of any person, nor shall the name of any person be placed thereon, except one who shall have appeared in person before said board; and any person not born in the United States, on applying to have his name placed on the registry, shall prove that he is a citizen of the United States, by producing a certificate of naturalization from a court of competent jurisdiction; nor shall any other proof of his being a citizen be received, unless he shall first show to the satisfaction of the board of registry, that said certificate has been issued to him and that he is unable to produce such certificate, by reason of loss or destruction thereof.

Names to be erased; electors may appear and require their names to be entered; statements to be made; if any elector declares on oath that any person is not a voter, the words "to be challenged" to be entered opposite. § 5. It shall be the duty of said inspectors at their meetings for revising and correcting said lists, to erase therefrom the name of any person inserted therein who shall be proved, to the satisfaction of said inspectors, to be a non-resident of said district, or otherwise not entitled to vote in said district, at the election then next to be held. Any elector residing in said district, and entitled to vote therein, may appear before said board of inspectors and require his name to be recorded on said alphabetical list, and upon complying with the requirements of this act, the same shall be recorded. Any person so requiring his name to be entered on said list shall make the same statement as to street or number thereof, and where he resides, required by the provisions of this act of persons offering their votes at the election, and shall be subject to the same pains and penalties for refusing to give such information, or for falsely giving the same, and shall also be subject to challenge, either by the inspectors, or either of them, or by any elector whose name appears upon said alphabetical list, and the same oath may be administered by the inspectors, as may by law be administered to persons offering to vote at an election. At such meeting for revision and correction, it shall be the right of any elector of the district to examine said registry, and if upon oath he shall declare that he has reason to believe that any person on said list is not a qualified elector, the said inspectors shall place the words "to be challenged," opposite the name of such person, to whom, while offering his vote, the general oath as to qualifications

* The reference is to the foregoing amended sections 1 and 3.

shall be administered, and if he shall refuse to take such oath, he shall not be permitted to vote.

Four copies corrected list to be made; how disposed of; names to be checked; no person to vote whose name is not on registry; this section to be taken as mandatory. § 6. After said list shall have been fully completed, the said inspectors shall cause four copies of the same to be made, each of which shall be certified by them to be a correct list of the voters of their district, one of which shall be filed in the office of the town clerk of towns, and in cities, in the office of the city clerk, and one of which copies shall be retained by each of the said inspectors. It shall be the duty of the said inspectors carefully to preserve the said list for their use on election day, and to designate one of their number or one of the clerks, at the opening of the polls, to check the name of every voter voting in such district whose name is on the register; and no vote shall be received at any annual election in this state unless the name of the person offering to vote be on the said registry, made and completed as hereinbefore provided, preceding the election; and any person whose name is on the registry may be challenged, and the same oaths shall be put as are now prescribed by law. This section shall be taken and held by every judicial or other tribunal as mandatory and not directory. And any vote which shall be received by the said inspectors of election in contravention of this section shall be void, and shall be rejected from the count in any legislative or judicial scrutiny into any result of the election.

62 N. Y., 186.

Duties of poll clerks; statement to be made if required, by elector, at time of offering his vote; penalty for wilful false statement. § 7. The clerks at each poll, in addition to the duties now prescribed by law, shall enter on the poll lists kept by them, in the columns prepared for that purpose, opposite the name of each person voting, the same statement or minute hereinbefore required of inspectors in making the registry, but such entry is not to be made by them, if the registry contains correctly the name and residence of such voter. Every elector at the time of offering his vote shall, if required, truly state the street in which he resides, and if the house, lodging or tenement in which he resides is numbered, the number thereof, and if a tenement or lodging-house, the number of the room, if any, and the floor or story of such tenement or lodging-house; and the clerks of the poll shall truly enter in the appropriate column of the poll list, opposite the name of the elector, the street in which the elector resides, and the number, in case the house, tenement or lodging-house is numbered, and if a tenement or lodging-house the number of the room, if any, and the floor or story of such tenement or lodging-house; and if such house, tenement, lodging or room is not numbered, then the clerk shall enter "not numbered," in the column of the poll list set apart for that purpose; and in case of refusal to make the statement as aforesaid, the vote of such elector shall not be received. Any person who shall wilfully make any false statement in relation thereto shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished with a fine of fifty dollars, or by imprisonment in the county jail of the county, or the city prison of the city, where such voter offers to vote for a period of thirty days, or by both such fine and imprisonment.

Any qualified voter may contest right of any person to register or to vote. § 8. Any person who is a qualified voter in any city shall have the right in any and all election districts in such city to challenge and contest the right of any person to be placed on any register, or to vote at any poll within said city, with the same effect as though the party making the challenge was a qualified voter in the district where he makes the challenge.

Poll lists and registers to be kept together and filed. § 9. After the canvass of the votes, the said poll list and said register so kept and checked as aforesaid, shall be attached together, and shall, on the following day, be filed in the town clerk's office in the town in which said district shall be, and in case the district is in a city, in the city clerk's office of said city, to be used by the inspectors in making the list of voters at the next general election.

Board may appoint clerk. § 10. The said board may, if necessary, on the day or days of making such lists, and the correction of the same, appoint a clerk to assist them in the discharge of the duties required by this act; and the same oath shall be taken by such clerk as is required by law of clerks of the polls and of elections.

Registers to be open to inspection. § 11. The registers shall at all times be opened to public inspection at the office of the authorities, in which they shall be deposited, without charge.

Compensation of inspectors and clerks; expenses for blanks, etc., how paid. § 12. The members of the board of registration and their clerks shall each receive the same compensation as is now allowed by law for inspectors of election for each day actually employed in the making and the completion of the registry, to be paid to them at the time and in the manner in which they are paid their other fees. The necessary blanks and instructions, and other incidental expenses incurred in executing the provisions of this act, shall be provided and paid for in the manner now provided for the payment of incidental expenses of election of the like character.

General powers. § 13. The said board shall have and exercise the same powers in preserving order at their meetings under this act as are given to inspectors of election for preserving order on election day.

Penalties for violation of this act. § 14. Any person who shall cause his name to be registered in more than one election district, or who shall cause his name to be registered, knowing that he is not a qualified voter in the ward or district where said registry is made, or who shall falsely personate any registered voter, and any person causing any such act, or aiding, abetting, inducing or procuring any person to be fraudulently registered as a voter, in any election district in which such person is not at the time a legally qualified voter, or who shall cause or procure or be in any manner instrumental in procuring any person to vote or to offer to vote in any election district in which such person is not at the time a legally qualified voter therein, or who shall advise or in any manner incite any person to vote or offer to vote at any such election in an assumed or fictitious name, shall be adjudged guilty of a felony, and shall, upon conviction thereof, be imprisoned in the state prison for a term of not less than one or more than three years. Any person who shall swear falsely before said board of registration shall be deemed guilty of wilful and corrupt perjury, and on conviction punished as such. If any member or officer of said board shall knowingly permit any person to register his name as a voter, or wilfully violate any of the provisions of this act, or be guilty of any fraud in the execution of the duties of his office, he shall be punished, upon conviction thereof, for each and every offence, by imprisonment in the state prison for a term of not less than two nor more than five years.

Same lists to be made for city as for general elections. § 15. The same list required to be made and perfected at general elections shall, in the same manner, be made and perfected by the inspectors at all elections for charter officers in the several cities of this state, and at such elections for charter officers the said board shall hold the first meeting provided for in this act, three weeks prior to such charter election.

Where liquors are sold not to be polling place. § 16. In cities and incorporated villages no building or part of a building shall be designated as a registry or polling place in which, or any part of which, spirituous or intoxicating liquors are sold.

Secretary of state to print and transmit copies of this law. § 17. The secretary of state shall cause this law to be printed, and a sufficient number of copies thereof to be sent to the county clerks of the several counties to supply each of the officers named in this act with a copy; and it shall be the duty of said county clerks, immediately, to transmit a copy of the same to each of the inspectors of election in each city and town of such county.

Chapter 572, laws of 1871, repealed. § 18. Chapter five hundred and seventy-two of the laws of this state, passed April nineteen, eighteen hundred and seventy-

one, entitled "An act to amend an act entitled 'An act in relation to elections in the city and county of New York,'" passed April five, eighteen hundred and seventy, be and the same is hereby repealed.

What cities and towns excepted. § 19. This act shall apply in all the incorporated cities in this state, except New York and Brooklyn, and in all incorporated villages of over seven thousand inhabitants as determined by the last census; but this act shall not affect any law in reference to the registration of voters in towns or villages abutting against cities. [*Thus amended by L. 1880, ch. 508.*]

L. 1880, Chap. 142 — An act to ascertain the citizens of the several towns in any county of this state having a population of over three hundred thousand according to the last census, who shall be entitled to the right of suffrage therein.

Filing of request; town clerks, justices of the peace and supervisors to constitute board.
SECTION 1. Whenever fifty or more resident citizens and legal voters of any town, in any county in this state having a population of over three hundred thousand according to the last state census, shall file in the office of the town clerk of such town, in writing, a request that the citizens of such town, entitled to the right of suffrage, be ascertained, the town clerk shall, within five days thereafter, notify the justices of the peace and supervisor of said town to meet, and in such notice shall name a time and place in said town, not less than three or more than ten days thereafter, for them to meet. Such justices and supervisor and the town clerk shall at the time and place so designated meet, and shall constitute a board with power to do and perform the acts and duties hereinafter required.

Four necessary for a quorum; appointment of registers. § 2. The presence of at least four of said board shall be necessary to constitute a quorum. When so convened they shall proceed to appoint, under their hands and seals, five citizens and legal voters of said town, who shall have been residents of said town for at least one year next before their appointment as registers, to act as and be known as the board of registry of said town. Said registers shall be selected from the two opposing political parties which cast the greatest number of votes at the then next preceding general election, and not more than three of them shall be at any time taken from or belong to either of said political parties. If any person so appointed fails or refuses to serve, or if a vacancy at any time shall occur, the other members of the board shall fill the vacancy by appointment.

Notice to persons appointed; organization; meetings, when and where held. § 3. The persons so appointed shall be notified by the town clerk within five days thereafter, and thereupon, and at least thirty days before the next annual town meeting or general election, they shall meet and organize as a board of registry by electing a chairman and clerk. They shall then fix the times and places at which they shall meet for the purpose of ascertaining the citizens of said town entitled to the right of suffrage therein, which meetings shall be on three different days in each election district, from eight o'clock in the morning until nine o'clock in the evening on each of said days. The board may, however, in their discretion, if they deem it best for the public convenience, substitute for the hours aforesaid, from seven to ten o'clock in the forenoon, and from four to ten o'clock in the afternoon on each of said days or either of them. They shall also meet thereafter on one day in each election district from four to ten o'clock in the afternoon for the purpose only of revising and correcting the roll; which meeting shall be at least ten days before the next ensuing general election. It shall be unlawful to hold meetings for the purpose of registering, under the provisions of this act, in a room in which strong or spirituous liquors, or ale, wine or beer are sold or offered for sale, or in a room where there is no access to or from the public highway except through a room in which the same are sold or offered for sale. [*Thus amended by L. 1886, ch. 649.*]

Board to give notice of meeting. § 4. The said board of registry shall immediately after organization cause such notice of their meetings for registration to be given, as in their judgment shall be reasonable and sufficient, by advertising the same, in at least one newspaper of each party, if there be one having a circulation in said town, and by posting ten or more notices in such town, in as many public and conspicuous places as they shall deem necessary and sufficient to notify the resident electors of said town.

Who may vote. § 5. No person shall be entitled to vote at, or take part in, such election or town meeting except as ascertained to be entitled to the right of suffrage, as herein provided.

Majority of board may act and pass on lists. § 6. At the times of meeting of the board of registry they, or a majority of them, shall have power to act, and shall take and enter on five lists the name and residence of each person appearing before them and claiming to be qualified and entitled to the right of suffrage, who shall not be challenged. And the citizens of such town entitled to and claiming the right to vote at the ensuing election or annual town meeting may attend before said board of registry for the purpose of registration.

Challenged party to take oath; duty of members of board to challenge. § 7. If any person so offering himself for enrolment shall be challenged by any member of said board, or by any person entitled to vote in said town, the said board of registry, or any member thereof, shall tender to him the oath required to be administered to persons when votes are challenged at general elections. And if the same is taken, then the name of such person shall be entered on the list of voters, and not otherwise. And it shall be the duty of every member of said board to challenge every person offering himself for registration who is, in his opinion, not entitled to vote, and who will not be entitled to vote at the next ensuing election or town meeting.

Naturalized citizens must produce certificate. § 8. Any person not born in the United States, claiming to be a citizen by naturalization, applying to have his name placed on the registry, must produce a certificate of naturalization from a court of competent jurisdiction, or prove by his oath or affirmation to the board of registry that such a certificate has been issued, and that the same has been lost or destroyed.

Board to make alphabetical list; to hold subsequent meetings; notice of meetings; lists, how certified and filed; duty of town clerk and election board; challenges. § 9. The said board of registry shall make one complete copy of the registration of each election district with all the names so registered, in alphabetical order; for each election district separately, which shall be certified to and signed by the members of said board and filed by them in the town clerk's office of said town at least one week preceding every general election; and said town clerk shall indorse thereon the time and date of filing and deliver the same respectively to the officers presiding at each election district at the ensuing general election in said town at the opening of the polls; who shall check the voters thereon and reject the vote of any person not on said list; and who shall return said list to the town clerk of said town within twenty-four hours after the closing of the polls of the election. The board of registry shall, before each annual town meeting, meet two days for the purpose of adding to the registry lists of the last preceding general election the names of those persons not appearing thereon, who are entitled to vote at the ensuing annual town meeting and for the election of justices of the peace and who shall have been duly registered by the board of registry at the time specified in their notices for such meetings; and they shall meet in a central place in said town on the second Saturday and the Wednesday next preceding such town meeting from one to ten o'clock in the afternoon of each day. They shall give the notice of such meetings provided for in section four of this act, and the board of registry shall certify and file the said lists with the additional names properly designated with the town clerk of said town within forty-eight hours thereafter,

and the said clerk shall indorse thereon the time and date of filing and deliver the same respectively to the officers presiding at each election district of the ensuing annual town meeting or election for justices of the peace at the opening of the polls, who shall check the voters thereon and reject the vote of any person not on said list, and return the same to the said clerk within twenty-four hours after the closing of the polls. But any registered person offering to vote at such election or town meeting may be challenged the same as if this act had not been passed; and no person shall be allowed to vote save in the election district of which he is a resident. [*Thus amended by L. 1886, ch. 649.*]

Meeting for revising correcting registry. § 10. On the Saturday preceding the day of election it shall be the duty of the said registers of election to hold a meeting from four to ten o'clock P. M. for the revising and correcting the registries of election, to receive testimony and arrange for challenge at the polls; but no name shall be added to any registry at such meeting, except upon proper proofs being furnished that the person applying for registration was sick or absent from the town on all days when the said registers had theretofore met for the purpose of registering votes, or that such person had become a citizen by naturalization ten days prior to the day of election.

Penalties for neglect or refusal to perform duties. § 11. Any officer of the town or any member of the board of registry charged with any of the duties herein imposed who shall wilfully or corruptly neglect or refuse to perform any of the duties herein intrusted to or devolved upon him shall be guilty of a misdemeanor, and punishable by fine not exceeding five hundred dollars, or imprisonment not exceeding six months, or by both such fine and imprisonment.

Penalty for illegal registration. § 12. Any person who shall, with the intent of voting illegally at any such annual town meeting or election, procure or cause his name to be entered or enrolled as entitled to the right of suffrage in said town, being at the time a non-resident in said town, or otherwise disqualified to vote therein, and knowing or having reason to believe that he will not be entitled to vote at the ensuing election or town meeting therein, shall be deemed guilty of a misdemeanor, and punishable by fine not exceeding two hundred and fifty dollars, or imprisonment not exceeding six months, or by both such fine and imprisonment.

[Section 13 repealed by L. 1886, ch. 593.]

Board to subscribe an oath for faithful performance of duties. § 14. Before said board of registry shall commence the registration of voters, as herein provided, each member of it shall take and subscribe an oath that he will, in all respects, well, faithfully and honestly discharge and perform all his duties as a member of such board of registry, which oath shall be filed in the office of the town clerk of said town.

Board to serve two years. § 15. The members of said board of registry shall hold their office for two years from the time of their appointment.

Compensation. § 16. The members of the board of registry and the justices of the peace, while in the discharge of their duties hereby created, shall receive three dollars per day and all necessary expenses, which shall be audited and allowed by the board of town auditors. [*Thus amended by L. 1886, ch. 649.*]

L. 1880, Chap. 576—An act to ascertain by proper proofs the citizens who shall be entitled to the right of suffrage in cities of sixteen thousand inhabitants or upwards, and the towns and villages abutting against the boundary of any such cities.

Inspectors to meet annually three weeks before election and form board of registry; list of voters to be made; may sit two days at first meeting; only qualified voters to act as inspectors; board of inspectors to be in constant attendance during hours allotted.
SECTION 1. The inspectors of election in each of the cities of the state, whose population exceed sixteen thousand, and in each of the towns whose boundary line shall

abut against any such city, shall meet annually on the Tuesday three weeks preceding the general election, at nine o'clock in the forenoon, at the place designated for holding the poll of said election, and organize themselves as a board for the purpose of registering the names of the legal voters of such district, and for this purpose they shall appoint one of their number chairman of the board, who shall administer to the other inspectors the oath or affirmation as prescribed by the constitution, and the same oath shall then be administered to the chairman by one of the other inspectors. The said board shall then proceed to make a list of all persons qualified and entitled to vote at the ensuing election, in the election district of which they are inspectors. Said list when completed shall constitute and be known as the register of electors of said district. The said inspectors, at their first meeting on Tuesday, three weeks preceding the general election, shall have the power, if necessary, to sit two days for the purpose of making said list, provided that at the annual election next prior to said meeting, the number of voters in the district of which they are inspectors exceeded four hundred. No person shall be eligible as such inspector, unless he shall be a qualified voter within such election district, nor unless he can read, write and speak the English language understandingly. No building or part of a building shall be designated or used as a place of registry or polling place in which, or any part of which, spirituous or intoxicating liquor is or has been sold within sixty days preceding the time of using the same. The said inspectors of election and registry shall also form a board of inspectors of election for the purpose of holding an election, by appointing one of their number as chairman, but it shall not be necessary for them to take any other or further oath of office than is herein provided for. The several officers of inspectors of registry and elections herein named are, and shall be in all courts and proceedings deemed and held respectively to be election district officers. It shall be the duty of the said inspectors, respectively, to be in constant attendance during the hours allotted for the discharge of their several duties, and any inspector who shall wilfully absent himself from his duties shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five dollars or more than one hundred dollars.

Registers to contain list of qualified voters, etc.; all names appearing on poll-list to be entered; in case new election district is formed; list to be completed as far as possible on day of meeting; list to be filed. § 2. Said registers shall each contain a list of the persons qualified and entitled to vote in said election district, alphabetically arranged according to their respective surnames, so as to show in one column the names at full length, and in another column, in incorporated villages, the residence by the number of dwelling, if there be a number, and the name of the street or other location of dwelling-place of each person. It shall be the duty of said inspectors to enter in said list the names of all persons residing in their election district where names appear on the poll-list kept in said district at the last preceding general election; and in all villages which come under the provisions of this act, to enter the number of the dwelling and name of street or other location, if the same shall be known to or can be ascertained by such inspectors, and for such purpose said inspectors are authorized to take from the office in which they are filed the poll-list made and filed by the inspectors of such district at the general election held next prior to the making of such register. In case a new election district shall be formed, the said inspectors shall enter in the list the names of such persons entitled to vote in the new election district, whose names appear upon the poll-list of the last general election kept in the district or districts from which said new election district is formed. The said inspectors shall complete, as far as practicable, the said register on the day of their maturing* aforesaid, and shall make four copies thereof, and certify the register and each of the copies to be a true list of the voters in their district, as far as the same are known to them; within two days thereafter the said original list, together with the list taken from the office as aforesaid, shall be filed by said inspectors in the office of the town

* So in original.

clerk of the town, and in the office of the village clerk in which such election district may be. One copy of said list shall, immediately after its completion, be posted in some conspicuous place in the room in which such meeting shall be held, and be accessible to any elector who may desire to examine the same or make copies thereof.

Second meeting to be on Friday preceding election and revise lists; addition of names; proceedings if they refuse to correct lists. § 3. The said board of inspectors shall meet on the Friday of the week preceding the day of general election, in their respective election districts, at the place designated for holding the polls of election, for the purpose of revising and correcting said lists; and for this purpose they shall meet at nine o'clock in the forenoon, and remain in session until nine o'clock in the evening of that day; and they shall there revise, correct, add to and subtract from and complete the said lists; and shall, on that day, add to the said lists the names of any persons who would, on the said day of general election, be entitled, under the provisions of the constitution and the laws of this state, to exercise the right of suffrage in their respective election districts. But in making such addition on that day, or on any prior day, they shall not place on the said lists the name of any person except in strict compliance with the provisions of section two and section four hereof, and the other provisions of this act. In case such board of inspectors or registers of election shall, upon sufficient evidence being presented to them, refuse to strike from such list the name of any person not entitled to vote, or shall refuse or neglect to register the name of any person in the district entitled to vote, application may be made to any justice of the supreme court of the district, and such justice may, upon sufficient evidence, order such name or names to be stricken from or added to such voting list, as the case may be, and such list shall be corrected accordingly, notice to be given to said inspectors or registers by order of such justice that such application has been made to him. [*Thus amended by L. 1883, ch. 508.*]

Proceedings to be open; only names of persons appearing before the board to be added; proof of citizenship. § 4. The proceedings of said board of inspectors shall be open, and all persons residing and entitled to vote in said district shall be entitled to be heard by said inspectors in relation to corrections or additions to said register. One of the lists so kept by said inspectors as aforesaid shall be used by them on the day for making corrections or additions for the purpose of completing the registry for such district. No addition shall be made to the said register of the name of any person, nor shall the name of any person be placed thereon except of one who shall have appeared in person before the said board; and any person not born in the United States, on applying to have his name placed on the registry, shall prove that he is a citizen of the United States, by producing a certificate of naturalization from a court of competent jurisdiction; or, in case of loss of such certificate, he shall show to the satisfaction of the board of registry that he is a naturalized citizen.

Names of persons found not to be legal voters to be erased; electors may appear and require their names to be recorded; statements, etc., to be made. § 5. It shall be the duty of said inspectors, at their meeting for revising and correcting said list, to erase therefrom the name of any person inserted therein who shall be proved to the satisfaction of said inspectors to be a non-resident of said district, or otherwise not entitled to vote in said district at the election then next to be held. Any elector residing in said district, and entitled to vote therein, may appear before said board of inspectors, and require his name to be recorded on said alphabetical list, and upon complying with the requirements of this act the same shall be recorded. Any person so requiring his name to be entered on said list shall make the same statement as to the street or number thereof, and where he resides, required by the provisions of this act of persons offering their votes at the election, and shall be subject to the same pains and penalties for refusing to give such information, or for falsely giving the same, and shall be also subject to challenge, either by the inspectors, or either of them, or by any other elector whose name appears upon

said alphabetical list, and the same oath may be administered as to persons offering to vote at an election.

Six copies to be made; how to be disposed of; lists to be preserved; only persons whose names appear on registry to vote; this section mandatory. § 6. After said list shall have been fully completed, the said inspectors shall cause six copies of the same to be made, each of which shall be certified by them to be a correct list of the voters of their district, one of which shall be filed in the office of the town clerk of towns, and of the clerk of the village, and in the office of the county clerk of the county, and one of which copies shall be retained by each of the said inspectors. It shall be the duty of the said inspectors carefully to preserve the said list for their use on election day, and to designate one of their number, or one of the clerks, at the opening of the polls, to check the names of every voter voting in such district, whose name is on the register; and no vote shall be received at any annual election in this state unless the name of the person offering to vote be on the said registry, made and completed as hereinbefore provided, preceding the election; and any person whose name is on the registry may be challenged, and the same oaths shall be put as are now prescribed by law. This section shall be taken and held by every judicial or other tribunal as mandatory and not as directory. And any vote which shall be received by the said inspector of election in contravention of this section shall be void, and shall be rejected from the count in any legislative or judicial scrutiny into any result of the election.

Entry to be made by clerks at each poll; statement to be made by electors; punishment for wilful false statements. § 7. The clerks at each poll, in addition to the duties now prescribed by law, shall enter on the poll-list kept by them, in columns prepared for that purpose, opposite the name of each person voting, the same statement or minute as hereinafter required of inspectors, in making the registry; but such entry is not to be made by them if the registry contains correctly the name and residence of such voter. Every elector, at the time of offering his vote, shall, if required, truly state the street in which he resides; and if the house, lodging or tenement, in which he resides is numbered, the number thereof, and the clerks of the polls shall truly enter in the appropriate column of the poll-list opposite the name of the elector, the street in which the elector resides and the number in case the house, lodging or tenement is numbered; and if the same is not numbered, then the clerk shall enter "not numbered" in the column of the poll-list for entering the number, and in case of refusal to make the statement as aforesaid, the vote of such elector shall not be received. Any person who shall wilfully make any false statement in relation thereto shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished with a fine of fifty dollars, or by imprisonment in the county jail of the county where such voter offers to vote, for a period of ten days, or by both such fine and imprisonment.

Poll-list to be checked. § 8. After the canvass of the votes, the said poll-list and said register so kept and checked as aforesaid shall be attached together, and shall, on the following day, be filed in the town clerk's office of the town in which said district shall be; and in case the district is in a village, in the office of the clerk of such village, and, also, in the county clerk's office of the county, to be used by the inspectors in making the list of voters at the next general election.

Clerk for board of registers. § 9. The said board may, if necessary, on the day or days of the making and the correction of such list, appoint a clerk to assist them in the discharge of the duties required by this act; and the same oath shall be taken by such clerk as is required by law of clerks of the polls and of elections.

Registers to be open and public. § 10. The registers shall, at all times, be open to public inspection at the office of the authorities in which they shall be deposited, without charge.

Compensation; blanks, etc. § 11. The members of the board of registration and their clerks shall each receive the same compensation as is now allowed by law for inspectors of elections, for each day actually employed in making and completion

of the registry, to be paid to them at the time and in the manner in which they are paid their other fees. The necessary blanks and instructions, and other incidental expenses incurred in executing the provisions of this act, shall be provided and paid for in the manner now provided for the payment of incidental expenses of election of the like character.

Power to preserve order. § 12. The said board shall have and exercise the same powers in preserving order at their meetings under this act, as are given to inspectors of election for preserving order on election days.

Administration of oaths; form of oath. § 13. Any one of the inspectors may, at any authorized meeting of the board, administer the oath or oaths now required by law to test the qualification of electors, and may also administer on the day of the making and completion of the list, to any elector of the district who may be offered as a witness to prove the qualification of any person claiming the right to be registered, the following oath: "You do swear, or affirm, that you are an elector of this district; that you will fully and truly answer all such questions as shall be put to you touching the place of residence and other qualifications as an elector of the person now claiming the right to be registered as a voter in this district." And whoever shall wilfully swear falsely upon such examination shall be deemed guilty of perjury.

Punishment for falsely registering, etc.; false swearing perjury. § 14. Any person who shall cause his name to be registered in more than one election district, or who shall cause his name to be registered, knowing that he is not a qualified voter, in the town or district where said registry is made, or who shall falsely personate any registered voter, and any person causing any such act, or aiding or abetting any person in any manner in either of said acts, shall be punished for each and every offence, by imprisonment in the state prison for not less than one year. All false swearing before said board of registration shall be deemed wilful and corrupt perjury; and on conviction punished as such. If any member or officer of said board shall wilfully violate any of the provisions of this act, or be guilty of any fraud in the execution of the duties of his office, he shall be punished for each and every offence, by imprisonment in the state prison for not less than one year.

Same list required for general, to be made for special and town elections; first meeting. § 15. The same list required to be made and perfected at general elections shall, in the same manner, be made and perfected by the inspectors or other officers of election at all elections for town and village officers, and all elections for school trustees, or boards of education, in any village, wherein, under the provisions of law, any of the villages mentioned in this act elect school trustees or boards of education by ballot; and the provisions and requirements of this act, so far as the same may be, are made applicable to such elections, except that the officers required to make such registries shall meet for that purpose on the Friday preceding the town or village charter election, and on the Friday preceding the election for school officers for the purpose of making up, revising, correcting and completing such register.

Secretary of state to print and distribute this act. § 16. The secretary of state shall cause this law to be printed, and a sufficient number of copies thereof sent to the county clerks of the several counties in which there are towns and villages which come under the provisions of this act to supply each of the officers mentioned or named in this act, with a copy, and it shall be the duty of the said county clerks immediately to transmit a copy of the same to each of the election officers mentioned in this act.

Act not to apply to vote cast by persons in naval or military service of United States. § 17. Nothing in this act contained shall be held to apply to any vote cast, or offered to be cast, nor to any vote under or by virtue of the provisions of any law enacted to enable qualified electors of this state, absent therefrom in the military service of the United States, or in the army or navy thereof, to vote

Act to apply to certain towns. § 18. The provisions of this act shall apply to the towns of Richmond county.¹

Not to apply to town except twenty-five electors petition for such registry. § 19. This act shall not apply to any town unless at least twenty-five electors thereof shall petition the supervisor of said town for such registry, at least one week before the time for meeting of the inspectors mentioned in the third section of this act, which petition shall be immediately filed by said supervisor in the town clerk's office of said town, which clerk shall at once notify the said inspectors; nor shall this act be construed to repeal or in any manner interfere with any general or special act for a registry of voters in any of the cities, villages or towns of this state.

Persons not in certain incorporated villages not on registry may vote on making proof specified; inspectors may take affidavits. § 20. No vote shall be received at any general election in this state, unless the name of the person offering to vote be on the said registry made on the Friday preceding the election, except that the person offering to vote in any district not in an incorporated city nor in an incorporated village having over ten thousand inhabitants, shall furnish to the board of inspectors his affidavit giving his reasons for not appearing on the day for correcting and verifying the list, and prove by the oath of a householder of the district in which he offers his vote that he knows such person to be an inhabitant of the district; and any person whose name is on the registry may be challenged, and the same oaths shall be put as are now prescribed by law. At any general election hereafter held in this state, any of the inspectors of such election may take the affidavit herein required by law to be furnished by persons offering to vote whose names are not on the registry of electors; and such inspectors, or one of them, shall, upon request, take and certify such affidavit without fee or reward. All other officers authorized by law to take affidavits shall at all times, upon request, take and certify any affidavit so required to be furnished as aforesaid, without any charge therefor.

[Certain towns, etc., are exempted by special statutes from particular provisions or from all the provisions of this act. Such statutes, being local, have been omitted.]

DIVISION FIFTH.

PROVISIONS RELATING TO THE NOMINATION OF CANDIDATES, AND EFFORTS TO PROCURE THEIR ELECTION.

L. 1886, Chap. 783 — An act to protect primary meetings, caucuses and conventions of political parties.

Unduly influencing vote, etc., punished. SECTION 1. If any person shall, by bribery, menace, or other corrupt means or device whatsoever, either directly or indirectly, attempt to influence any person, delegate or substitute, entitled under the call of any political party of this state to vote in any primary meeting, caucus or convention of any such party, in giving his vote or ballot, or deter him in giving the same, or hinder him in the free exercise of the right of suffrage at any such primary meeting, caucus or convention, and shall be convicted thereof, such person so offending and convicted shall be adjudged guilty of a misdemeanor, and shall be fined or imprisoned, according to the discretion of the court before which such conviction shall be had; such fine in no case to exceed five hundred dollars, nor such imprisonment one year.

¹ Section 18 was amended by L. 1881, ch. 196, and by L. 1882, ch. 13. The act of 1881 "and the acts amendatory thereof" were repealed in 1883, with a special clause which, it appears to the editor, has the effect to revive the original § 18 of the act of 1880; but so that each person may judge for himself as to the effect of the repealing act, it is given at length, as follows: L. 1883, chap. 316 — An act to repeal chapter one hundred and ninety-six of the laws of eighteen hundred and eighty-one, and the acts amendatory thereof. SECTION 1. Chapter 196 of the laws of 1881, entitled "An act to amend chapter 576 of the laws of 1880, entitled 'An act to ascertain by proper proofs the citizens who shall be entitled to the right of suffrage in cities of sixteen thousand inhabitants, or upwards, and the towns and villages abutting against the boundary of any such cities,' passed May 3, 1881," and the acts amendatory thereof, is hereby repealed, and nothing in this act shall be construed to amend or repeal chapter 576 of the laws of 1880.

L. 1882, Chap. 154 — An act to protect primary elections and conventions of political parties and to punish offenses committed thereat.

Persons illegally voting, etc., guilty of a misdemeanor. SECTION 1. If at any political primary election held by any political party, organization or association in this state, any individual shall falsely personate and vote under the name of any other person, or shall intentionally vote without the right to do so, or shall wilfully and wrongfully obstruct and prevent others from voting who have the right to do so at such primary, or shall fraudulently and wrongfully conceal or destroy ballots cast, or in any manner intentionally and wrongfully deposit ballots in the ballot-box, or take them therefrom, or shall commit any other fraud or wrong, tending to defeat or affect the result of the election, he shall be deemed guilty of a misdemeanor.

Presiding officer and inspectors to take oath; oath to persons offering to vote; penalty for false swearing. § 2. The presiding officer and inspectors at any such election shall, before entering upon their duties, severally sign and swear to an oath in the form now required of inspectors at general elections. The vote or ballot of any person offered at such election shall, upon challenge by any lawful voter thereat, be rejected, unless he be sworn as to his qualifications as such voter; and the presiding officer or any inspector of such primary is hereby empowered, and it shall be his duty, to administer an oath to such person and to any other person offering to vote, as he may deem advisable, to the effect that he will true answers make to such questions as shall be put to him touching his qualifications as a voter and his right to vote. He may then be examined as to such qualifications and right to vote. If he shall swear to the necessary qualifications of a voter, as prescribed by the regulations of the association holding the primary or convention, his vote shall be received. If the person so sworn and examined shall intentionally swear falsely as to his qualifications as a voter he shall be deemed guilty of perjury and shall, on conviction, be punished as now prescribed by law for the crime of perjury.

A misdemeanor to receive illegal vote, etc. § 3. If any person acting as inspector, teller or canvasser at any such primary election shall knowingly receive the vote of any individual who shall have been challenged, or who is known to him not to be entitled by the regulations of the association holding the primary election to vote at such primary, unless the same shall be first sworn in as aforesaid, or shall in any manner fraudulently and wrongfully deposit or put any ballots into or take any from the ballot-box of said primary election, or shall fraudulently and wrongfully mix any ballots with those cast at said primary election, or shall knowingly make any false count, canvass, statement, certificate or return of the ballots cast or vote taken at said primary election, he shall be deemed guilty of a misdemeanor.

Bribery of delegates. § 4. If any person elected a delegate at any such primary or convention shall accept or receive any money or valuable thing as a consideration for his vote as such delegate he shall be deemed guilty of a misdemeanor.

How to be construed. § 5. The words "primary election," as used in this act, shall be construed so as to embrace all elections held by any political party, convention, organization or association, or delegates therefrom, for the purpose of choosing candidates for office or the election of delegates to other conventions, or for the purpose of electing officers of any political party, organization, convention or association.

Voters. § 6. No person shall be entitled to vote at any primary election unless of the age of twenty-one years and a citizen of the United States.

Fine. § 7. The punishment of any of the offences in this act declared to be misdemeanors shall be a fine not exceeding three thousand dollars or imprisonment not exceeding three years, or by both such fine and imprisonment.

[Sections 8 and 9 repealed by L. 1883, ch. 380, which was amended by L. 1887, ch. 265. See the next statute.]

L. 1883, Chap. 380 — An act to repeal sections eight and nine of chapter one hundred and fifty-four of the laws of eighteen hundred and eighty-two, entitled, etc.

Repeal. SECTION 1. Sections eight and nine of chapter one hundred and fifty-four of the laws of eighteen hundred and eighty-two, entitled "An act to protect

primary elections and conventions of political parties and to punish offenses committed thereat," are hereby repealed; but the provisions of the remaining sections of chapter one hundred and fifty-four of the laws of eighteen hundred and eighty-two, aforesaid, shall not apply to cities in the State in which as appears by the last census of the United States there was a population of over ten thousand inhabitants. [*Thus amended by L. 1887, ch. 265.*]

L. 1882, Chap. 366—An act to punish false swearing at political caucuses and assemblies.

Presiding officers may administer oaths; record to be kept. SECTION 1. It shall be lawful for the presiding officer or any of the presiding officers of any caucus or assembly held for the purpose, in whole or in part, of selecting a candidate or candidates for office, or a delegate or delegates to a political convention or assembly, to administer to any person offering to vote, by ballot or otherwise, at such caucus or assembly, who shall have been challenged, an oath or affirmation as follows: "You do swear (or affirm, as the case may be) that you will true answers make to such questions as shall be put to you by the presiding officer, or either of the presiding officers of this caucus or assembly, touching your name and residence and your qualifications as a voter in this district, and whether you have before voted at this caucus or assembly." And it shall be the duty of the presiding officer or officers at such caucus or assembly to keep a correct record of the interrogatories propounded by said presiding officer or officers, to any person who shall have been duly sworn, as provided in this act, and also a correct record of the answers to all such interrogatories, which records shall be forthwith deposited by him or them with the clerk of the county.

Intentional false swearing perjury. § 2. In case the person so swearing shall intentionally make false answer to any question so put to him by the presiding officers, or either of the presiding officers of such caucus or assembly, he shall, upon conviction, be adjudged guilty of perjury, and shall be punished by imprisonment in the state's prison for a term not less than one year, nor more than three years.

L. 1883, Chap. 422—An act to suppress political assessments.

Officers, etc., not to solicit money for promoting success of political party. SECTION 1. That no public officer or public employee of this state shall, directly or indirectly, solicit, or be in any manner concerned in soliciting any assessment, subscription or contribution for the purpose of promoting in any manner the success of a political party, or the election or defeat of any candidate or candidates to office from any other such officer or employee, or from any person receiving any salary or compensation from moneys derived from the treasury of this state, or from fees therein.

Persons in room occupied by public officer not to solicit money, etc. § 2. That no person in any room or building occupied in the discharge of official duties by any public officer or public employee referred to in this act, or in or at any prison, hospital, asylum, or other place where public work is performed or official duties are discharged, shall solicit, request, receive or give notice of, by letter, circular or otherwise, any contribution for the purpose of promoting in any manner the success of a political party, or the election or defeat of any candidate or candidates to office, of money or anything of value, or receive or request any subscription, or promise to make or pay such contribution or subscription.

Public officers not to discharge, etc., officers or employees for refusal to pay. § 3. That no public officer or public employee referred to in this act shall discharge, promote or degrade, or in any manner change the rank or compensation of any other such officer or employee, or promise or threaten so to do, or aid in so doing, for or by reason of the making, the withholding, or the refusal to make or pay any contribution of money or other valuable thing for the purpose of promoting in any manner the success of a political party or the election or defeat of any candidate or candidates for office, or for casting or refraining from casting a vote at any election, or for the way in which a vote shall be cast.

Not to give money to promote election. § 4. That no public officer or public employee shall, directly or indirectly, give or hand over to any other such officer or employee any money or other valuable thing on account of, or to be applied to the promotion of his election or appointment to or retention in office; nor shall he make any promise or give any subscription to such officer or employee to pay or contribute any money or other valuable thing for any such purpose or object.

Penalty. § 5. That any person who shall be guilty of violating any provision of this act shall be deemed guilty of a misdemeanor.

Definitions. § 6. The phrase "public officer," as used herein, shall be held to include every member of the legislature, every officer serving under the constitution or laws of this state, or paid, directly or indirectly, from the state treasury; and also every officer deriving his office from, or serving under, or paid from the treasury of any county, district, city, village, town or other political division of this state, or paid from official fees; and the phrase "public employee," as used herein, shall be held to include every person not being an officer as aforesaid, employed in or for, or doing public work in connection with the office of any said officer or employed in or for work for this state, or any county, district, city, village, town or political division aforesaid, or paid in whole or part by any fees or from any treasury aforesaid.

Act not to prevent free gifts and contributions. § 7. Nothing in this act contained shall prevent any public officer or public employee giving money elsewhere than in any room, building, prison, hospital, asylum or place in the second section mentioned, for any political purpose, freely and of his own motion, to any citizen except to an officer or employee aforesaid, for the purpose of his election or appointment to or retention in office, but every such gift and every promise to give or to make such contribution made to any person whatever on consideration of having, or upon the condition or for the purpose of securing or retaining, any such office or public employment, or any promotion or privilege or increase of salary or compensation therein or of securing exemption from removal or discharge therefrom, shall be a misdemeanor on the part of every person who shall be a party to such giving, promise or agreement as last aforesaid.

A misdemeanor to offer or procure nomination upon condition of payment. § 8. Whoever, alone or with others, shall make or tender or offer to procure or cause any nomination or appointment for any office or place, or take part in so doing, and whoever shall accept or request any such nomination or appointment by reason of the payment or upon the condition or understanding, whether expressed or implied, of the payment, or any promise to pay any money or thing of value for any political purposes shall be guilty of a misdemeanor, and all the provisions of this act shall be deemed as applicable in respect of any person being or seeking to be made a candidate for any office or place as they are in respect to any officer or public employee.

Persons violating act not privileged from testifying. § 9. No person who shall violate any of the provisions of this act shall, upon the prosecution of any other person or official for the violation of any of its provisions, be privileged from testifying in relation thereto, and such evidence so given by him shall not be used against him in any criminal or civil prosecution, action or proceeding.

L. 1887, Chap. 265 — An act to protect primary elections and conventions of political parties, and to punish offences committed thereat.

Primary elections; inspectors to be appointed. SECTION 1. Every political primary election held by any political party, organization or association, for the purpose of choosing candidates for office or the election of delegates to conventions, or for the purpose of electing officers of any political party, organization or association, shall be presided over and conducted by inspectors to be selected in the manner prescribed by the rules or regulations of the associations holding such primary, and such primary election shall, at every poll, be public to the watchers hereinafter provided for from its commencement to the close of the canvass.

Notice in cities; polls, how long open. § 2. No such primary election shall be held unless at least two days' notice of the holding of same shall be given as follows:

If said election is to take place in a city where a daily newspaper is published, by publishing the same in such daily newspaper at least twice; and in case no daily newspaper is published in said city, by posting a notice of the holding of said primary in at least three public places in said city, and such election shall be held at such hours between nine o'clock in the forenoon and nine o'clock in the afternoon as may be prescribed by the party, organization or association holding the same, but such polls shall be held open not less than one hour, and the voting thereat shall be by ballot.

Watchers allowed. § 3. At any time before or during any such primary election held, for the purposes herein provided, the candidates or a majority thereof named on any ticket to be voted for at such primary election, shall have the right to name one elector as watcher at the poll of such election district for such election.

How watchers designated. § 4. The names and residences of the persons so named as watchers shall be presented to the presiding officer or secretary of the general committee of such political party, organization or association in the city or county where such election is to be held and he shall, by written or printed appointment, signed by him, appoint such persons so named as such watchers and notify them of their appointment. In case of the neglect or refusal of said presiding officer or secretary of said political party, organization or association so to appoint and notify said watchers as aforesaid, or in case of the refusal of any persons so appointed to act as such watchers, or if for any other reason said watchers shall not be duly appointed or shall omit to act as such, then the candidates or candidate who named them may, at the time of holding said election or at any time during the same, nominate, in writing, to said inspectors, one person, to act as such watcher, and the said inspectors shall thereupon, orally or in writing, appoint said person so named as such watcher, and shall allow said watcher to act as such.

Watchers' rights. § 5. Said watchers and each of them shall be entitled to be present at such election, in the room occupied by the inspectors of election, commencing at least fifteen minutes before any ballot-box shall be opened, until the close of the canvass and the signing of the proper returns of such election.

Officers' oaths. § 6. The presiding officer and inspectors at any such election shall, before entering upon their duties, and in the presence of the said watchers, severally sign and swear to an oath in the form now required of inspectors at general elections, and the said oaths so taken and subscribed shall be filed as herein-after stated.

Ballot-boxes examined. § 7. At every such election, immediately before any ballots are received by the inspectors of election, or any of them, said inspectors shall open every ballot-box used or to be used at such election, and permit each watcher present to examine said ballot-box and every part or portion thereof, so that he can see that there is, at the commencement of receiving ballots, no ballots therein.

Watchers may be present till canvass closed, etc. § 8. Every watcher shall have the right from the time of so inspecting said ballot-box or boxes, at any and all times until the canvass of the ballots and signing of the proper returns and copies thereof, to be present in the room occupied by said inspectors in a position and place where he may fully, conveniently and comfortably watch the reception and deposit of every ballot cast at such election, and the full and final canvass of the ballots, and signing of the proper returns and copies thereof, and no ballot-box, or ballot cast, except it be in the ballot-box, shall be removed from the constant sight and inspection of such watchers, until the canvass is closed and the proper returns and copies thereof made and completed.

Place of ballot-box, screens forbidden. § 9. Every ballot-box shall be so placed at a window, or elsewhere, that the voter depositing any ballot, and each watcher, may conveniently see every ballot received by the inspectors and deposited in the ballot-box, and no screen or other obstruction to such view of any ballot by the voter or any watcher shall be allowed.

Poll-list; ballots to be shown. § 10. The inspectors of election shall keep a poll-list of the name and residence of each person, voting at such election. If requested

by any watcher or any elector present at any such canvass, it shall be the duty of the inspectors of election, and each of them, at such canvass to exhibit any and all ballots cast at such election, to such watcher or elector, fully opened, and in such a condition and manner that he may fully and carefully read and examine the same, though said inspector shall not allow any such ballot to be taken from his hand.

Inspectors' certificate. § 11. Every inspector acting at any such primary election shall make and sign a certificate, statement or return of the canvass of such election, and the same shall be made upon a single sheet of paper, or if not, each half sheet shall be signed at the end thereof by the inspector or inspectors so acting. If any less than a majority of the inspectors chosen, act at such primary, the certificate, statement or return of the inspector or inspectors acting shall be of the same force and effect as if signed by all or a majority of the inspectors chosen, any rule or regulation of such association to the contrary notwithstanding.

Room for primary. § 12. The room used for the reception of ballots shall be of a reasonable size, so as to admit at all times at least ten electors, including the watchers, exclusive of the inspectors of election.

Challenging votes. § 13. Any watcher or other elector may challenge the right of any person offering to vote at any such election.

Person challenged to make oath; false swearing perjury. § 14. The vote or ballot of any person offered at such election shall, upon challenge by any lawful voter thereat, be rejected, unless he be sworn as to his qualifications as such voter; and the presiding officer, or any inspector of such primary is hereby empowered, and it shall be his duty, to administer an oath to such person, and to any other person offering to vote, as he may deem advisable, to the effect that he will true answers make to such questions as shall be put to him touching his qualifications as a voter, and his right to vote. He may then be examined as to such qualifications and right to vote. If he shall swear to the necessary qualifications of a voter, as prescribed by the regulations of the association holding the primary or convention, his vote shall be received, provided that no rule, regulation or restriction of any such association shall authorize electors of opposite political parties to vote thereat. If the person sworn and examined intentionally swear falsely as to his qualifications as a voter, he shall be deemed guilty of perjury, and shall, on conviction, be punished as now prescribed by law for the crime of perjury.

Announcing result; statement and poll-list to be filed. § 15. The inspectors of election of each election district shall immediately after the completion of the canvass publicly announce the vote thereat and the result of such canvass, and shall within eighteen hours after the completion of the canvass, file the returns or statements of the same in the office of the city clerk where such election is held, except that in the city of New York the same shall be filed in the office of the register of said city and in the several cities in the State other than the city of New York in which the county clerk's office is kept, the same shall be filed in the office of the county clerk. The said inspectors shall depute one of their number to and he shall file said returns as above prescribed, and shall file therewith the oaths so taken and subscribed by them, and the poll-list of the name and residence of each person voting at such election.

To be public records. § 16. The returns or statements of any such election on file as aforesaid shall be public records, and open to inspection and examination by any elector of the State.

Misconduct of inspectors, etc., punished. § 17. Every inspector, teller or canvasser at any such primary election who shall knowingly receive the vote of any individual who shall have been challenged, or who is known to him not to be entitled to vote at such primary, unless the same shall be first sworn in as aforesaid, or shall in any manner fraudulently or wrongfully deposit or put any ballots into, or take any from, the ballot-box of said primary election, or shall fraudulently or wrongfully mix any ballots with those cast at said primary election, or shall knowingly make, or attempt to make any false canvass of the ballots cast at any election or shall knowingly make or attempt to make, any false statement of the result of any

canvass, though not signed by a majority of the inspectors of election, shall be guilty of a felony and be punished by imprisonment in a county jail or penitentiary, or in the State prison, not less than one nor more than five years.

Inducing misconduct of inspector punished. § 18. Any person who shall induce or attempt to induce, any inspector of election to do any act forbidden by the last section shall be guilty of a felony, and be punished in the same manner and to the same extent.

False personation and other misconduct punished. § 19. If at any political primary election held by any political party, organization or association in this State, any individual shall falsely personate and vote, or attempt to vote, under the name of any other person, or shall intentionally vote, or attempt to vote, without the right to do so, or shall wilfully or wrongfully obstruct or prevent others from voting, who have the right to do so at such primary, or shall fraudulently or wrongfully conceal or destroy ballots cast, or in any manner intentionally or wrongfully deposit ballots in the ballot-box, or take them therefrom, or shall commit any other fraud or wrong tending to defeat or affect the result of the election, he shall be deemed guilty of a misdemeanor, and punished as hereinafter prescribed.

Other violations of this act punished. § 20. Every inspector of election who shall intentionally omit, neglect or refuse to do any act required by this act, and every inspector of election, policeman, member of any police force or other person who shall intentionally refuse to permit the doing of any act hereby allowed to be done by any watcher or elector, or shall intentionally do any act forbidden by this act except in sections fourteen, seventeen and eighteen thereof, shall be guilty of a misdemeanor, and be punished by imprisonment in a county jail or penitentiary for not less than three months nor more than one year or by a fine of not exceeding two hundred and fifty dollars, or by both such fine and imprisonment.

"Inspector" defined. § 21. The word "inspector" used herein shall be construed to include and mean all officers, who under any law of this State, shall be required to canvass votes.

Who only may vote at primaries. § 22. No person shall be entitled to vote at any primary election unless of the age of twenty-one years, a citizen of the United States, and a resident for ten days of the ward or district in and for which such primary election shall be held.

Act applies only to cities of 10,000 inhabitants. § 23. This act shall apply only to the cities in the State in which, as appears by the last census of the United States, there was a population of over ten thousand inhabitants.

[Section 24 amends L. 1883, ch. 380, which amended L. 1882, ch. 154.]

Special provisions as to application of act. § 25. But notwithstanding anything herein before contained, the provisions aforesaid in reference to voting by ballot, the time for holding open the polls, the taking of an oath by the inspectors required by section six, the use of a ballot-box at such primaries, the keeping of a poll list of the electors voting and the filing of returns required by section fifteen need not be observed unless the rules and regulations of the organization calling such primary shall require an election by ballot or unless twelve hours before such primary is appointed to be held five qualified electors of the district shall serve upon the presiding officer or secretary of the general committee of the political party, organization or association in the city in which such primary election is to be held, or upon the chairman of the district committee of such district a notice or demand in writing signed by them, stating that they require the aforesaid provisions to be observed at such primary, or unless such primary meeting shall itself, by a vote of those present, resolve to observe such provisions, then, in such cases, such provisions shall be strictly and fairly observed. When any such notice or demand shall be thus served it shall be the duty of the officer upon whom the same is served to immediately deliver the same to the presiding officer or the inspectors or other officer in charge or control of such primary, so that the provisions aforesaid can be enforced.

TITLE 1.

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CHAPTER VII

OF THE LEGISLATURE.

TITLE I.—OF THE APPORTIONMENT OF THE MEMBERS OF THE LEGISLATURE.

TITLE II.—OF THE POWERS, DUTIES AND PRIVILEGES OF THE TWO HOUSES, AND THEIR MEMBERS AND OFFICERS.

TITLE III.—OF APPLICATIONS TO THE LEGISLATURE.

TITLE IV.—OF THE ENACTMENT AND PROMULGATION OF STATUTES, AND OF THE TIME FROM WHICH THEY TAKE EFFECT.

TITLE V.—OF THE MODE OF TAKING TESTIMONY IN CERTAIN LEGISLATIVE PROCEEDINGS.

[151] **TITLE VI.**—OF THE COMPENSATION OF THE MEMBERS OF THE LEGISLATURE, AND THEIR OFFICERS, AND THE CONTINGENT EXPENSES OF THE SENATE AND ASSEMBLY.

[Supplementary Title.

TITLE 6^A.—Of the public printing.]

TITLE I.

Of the Apportionment of the Members of the Legislature.

- SEC. 1.** Four senators to each district ; one to be chosen annually.
 2. Apportionment of the members of assembly.
 3. Rule by which new apportionments are to be made.
 4. When new apportionments to be made.
 5. Every county separately organized before the 10th of November, 1821, to have at least one member.
 6. No change to be made of a county that shall reduce the number of inhabitants below the number required to entitle it to a member.
 7. Population required for a new county.

Senators.
7 Barb.,
421.

SECTION I. Each of the senate districts must be represented by four senators, and one senator must be elected annually in each district.

[Abrogated, Const., art. III, § 3. For the existing senate districts, see L. 1879, ch. 208, § 1, p. 272, *ante*.]

Members of
assembly.

§ 2. The members of the assembly must be chosen by counties ; and the members of assembly hereafter to be chosen in the several counties of this state, until a new apportionment shall be made, shall be as follows :

[The enumeration omitted, the entire section being abrogated by Const., art. III, § 5. For the existing apportionment, etc., see L. 1879, ch. 208, §§ 2 and 3, pp. 288, 289, *ante*.]

Future ap
portion-
ment of
assembly.

§ 3. In every new apportionment to be hereafter made of the members of assembly, they must be apportioned among the several counties of the state, as nearly as may be, according to the numbers of their respective inhabitants, excluding aliens, paupers, and persons of colour not taxed.

[Abrogated, Const., art. III, § 5.]

§ 4. Such an apportionment must be made by the legislature, at its first session after the return of every enumeration of the inhabitants of the state, made in pursuance of the Constitution.

TITLE 2.
When to be made.

[The same.]

§ 5. Every county established and separately organized before the tenth day of November, in the year one thousand eight hundred and twenty-one, and then being one of the counties of the state, must always be represented by at least one member of the assembly.

One member to each county.
[153]

[The same.]

§ 6. No change can be made, that shall have the effect of reducing the number of the inhabitants of any such county, according to the last state census, below the number required to entitle it to a member of the assembly, according to the existing ratio of representation.

Change in county.

§ 7. No new county can be erected, unless its population, according to the return of the last state census, shall entitle it to a member.

New county.

[Abrogated, Const., art. III, § 5.]

TITLE II.

Of the Powers, Duties and Privileges, of the two Houses, and their Members and Officers.

- Sec.**
1. Legislature when to assemble.
 2. Powers of each house.
 3. Journal to be kept.
 4. Doors to be kept open.
 5. Adjournments.
 6. Members privileged from arrest on civil process, during their attendance.
 7. Privileged in like manner for fourteen days before session, and while going and returning.
 8. Further privilege after adjournment.
 9. Privilege while absent with leave.
 10. Officers in actual attendance privileged from arrest.
 11. Members not to be questioned in any other place, for any speech in the house.
 12. Each house has power to expel members, and to punish members and officers.
 13. Each house has power to punish a breach of its privileges, or of the privileges of its members; cases defined in which that power is to be exercised.
 14. Imprisonment when ordered by either house, shall not extend beyond same session.
 15. Assembly has power of impeaching all civil officers, but a majority of all the members elected must concur.
 16. Clerks of senate and assembly to give bonds.
 17. Clerks to prepare indexes to journals, and to furnish to secretary of state copies of concurrent resolutions.

SECTION I. The legislature shall assemble at the capitol, in the city of Albany, on the first Tuesday of January, in every year.

Time of meeting.
7 Barb., 421.
Quorum, etc.

§ 2. A majority of each house constitutes a quorum to do business. Each house determines the rules of its own proceedings, and is the judge of the qualifications of its own members.

[See Const., art. III, §§ 15, 21.]

- TITLE 2.**
Journals. § 3. Each house is required to keep a journal of its proceedings, and to publish the same, except such parts, as may in its judgment, require secrecy.
- Sittings public** § 4. The doors of each house are to be kept open, except when the public welfare shall require secrecy.
- Adjournments.** § 5. Neither house can, without the consent of the other, adjourn for more than two days.
- [184] Privilege from arrest.** § 6. Every member of the legislature shall be privileged from arrest on civil process, during his attendance at the session of the house to which he shall belong, except on process issued in any suit, brought against him for any forfeiture, misdemeanor, or breach of trust, in any office or place of public trust held by him.
[1 R. L., 122, §§ 1, 3.]
- Ib.** § 7. Each member shall enjoy the like privilege, for the space of fourteen days previous to any such session, and also while going to or returning from such session, provided the time of such going or returning do not exceed fourteen days.
[1 R. L., 122, §§ 1, 3.]
- Ib.** § 8. Each member shall enjoy the like privilege after any adjournment of the legislature, until its next meeting, when such adjournment shall not exceed fourteen days.
[1 R. L., 122, §§ 1, 3.]
- Ib.** § 9. Each member shall enjoy the like privilege, while absent with leave of the house to which he shall belong.
- Ib., officers.** § 10. No officer of either house, whilst in actual attendance upon the house, shall be liable to arrest on civil process.
- Freedom of debate.** § 11. For any speech or debate in either house of the legislature, the members shall not be questioned in any other place.
[1 R. L., 48, § 11. See Const., art. III, § 12.]
- Punishment of members, etc.** § 12. Each house has the power to expel any of its members, and to punish its members and officers for disorderly behaviour, by imprisonment; but no member shall be expelled, until the report of a committee, appointed to inquire into the facts alleged as the ground of his expulsion, shall have been made.
- Breach of privileges, when punishable.** § 13. Each house has the power to punish as a contempt, and by imprisonment, a breach of its privileges, or of the privileges of its members; but such power shall not hereafter be exercised, except against persons guilty of one or more of the following offences:
32 Hun, 567, note; 32 Hun, 574, 589; 3 N. Y. Crim. R., 361; 89 N. Y., 463.
1. The offence of arresting a member or officer of the house, in violation of his privilege from arrest, as herein before declared.
 2. That of disorderly conduct in the immediate view and presence of the house, and directly tending to interrupt its proceedings.
 3. That of publishing any false and malicious report of the proceedings of the house, or of the conduct of a member in his legislative capacity.
 4. That of refusing to attend, or be examined as a witness, either before the house, or a committee, or before any person authorized by the house, or by a committee, to take testimony in legislative proceedings.
 5. That of giving or offering a bribe to a member, or of attempt-

ing by menace, or any other corrupt means or device, directly or indirectly to control or influence a member in giving his vote, or to prevent him giving the same.

§ 14. In all cases in which either house shall punish any of its members or officers, or any other person, by imprisonment, such imprisonment shall not extend beyond the same session of the legislature.

TITLE 2.

[1851
Term of
imprison-
ment.
3 N. Y.
Crim. R.,
353; 99 N.
Y., 473.
Power of
impeach-
ment.
32 Hun, 598.

§ 15. The assembly has the power of impeaching all civil officers of this state, for mal and corrupt conduct in office, and for high crimes and misdemeanors; but a majority of all the members elected must concur in an impeachment.

§ 16. Every person appointed to the office of clerk of the senate or assembly, shall, before he enters on the duties his office, execute a bond to the people of this state, with such security as the comptroller shall approve, in the penal sum of five thousand dollars, conditioned that he shall faithfully perform the duties of his office, and account for all monies which may come to his hands by virtue thereof.

Clerks of
senate and
assembly;
bond.

[L. 1826, 377, § 3.]

§ 17. The clerks of the senate and assembly, immediately after any session of their respective houses, shall prepare indexes to the journals kept by them, and shall deliver the same to the state printer, for publication.* And whenever any concurrent resolution shall be passed by the legislature, it shall be the duty of the clerk of the house in which it originated, to furnish a certified copy thereof to the secretary of state, to the end that the same may be published with the laws, in case the secretary shall deem it necessary.

Id., duties.

[Consult Const., as amended in 1874, art. III, §§ 17 and 18, for restrictions on power of legislature.]

L. 1837, Chap. 140—An act for the preservation of legislative petitions and papers.

Petitions and papers where to be kept. SECTION 1. All petitions and papers presented to the senate or assembly, shall be kept on file in each of the houses where they shall be originally presented; and copies of said petitions or papers, certified by the clerk of the house in which they shall be presented and filed, shall be *prima facie* evident† thereof, wherever the same may be required within this state.

Title deeds. § 2. Either house may, by resolution, order title deeds or original documents, accompanying any petition, to be delivered to the persons entitled thereto.

L. 1859, Chap. 321—An act for the better preservation of the public records, and for other purposes.

Manuscript papers placed in charge of regents, etc. SECTION 1. The manuscript or printed papers of the legislature, usually termed "on file," and which have been

* By L. 1847, ch. 254, § 1, the secretary of state was to cause this to be done, but the original provision as to the preparation of indexes by the clerks was restored by L. 1886, ch. 588, § 8.
† So in the original.

on file for a longer period than five years, in the custody of the clerks of the senate and assembly, and all other public records of the state, not in the custody of some public officer, shall hereafter be placed in charge of the regents of the university.

No papers removed from state officers. § 2. This act shall not be construed to cause the removal of the documents on record in the office of the secretary of state or in the custody of either of the state officers.

Duty of trustees of capitol. § 3. It shall be the duty of the trustees of the capitol to assign and suitably arrange the room formerly in the use of the judges of the court of appeals, and any other rooms which may be needed and can be spared for the purposes of this act.

Regents of the university to have sole charge. § 4. The regents of the university shall have the sole charge and custody of the records and papers mentioned in the first section of this act, and no paper shall be removed from the files in their custody, or in the charge of the clerks of either house, except on a resolution of the senate or assembly, withdrawing the same for a temporary purpose, and in case of such removal, a description of the paper, and the name of the officer or person receiving the same shall be entered in a book to be provided for the purpose, with the date of its delivery and return. Nothing contained in this act shall be construed to prevent the clerk of the senate or assembly, or a deputy appointed by either of them for that purpose, from having access to any papers of the senate or assembly respectively, for the purpose of taking copies of the same, as hereinafter provided.

Duty of regents and clerks of both houses. § 5. It shall be the duty of the regents of the university, and of the clerks of the senate and assembly respectively, to cause all papers in their charge to be so classified and arranged that they can be easily found.

Certified copies of papers ; fees ; copies to be evidence, etc. § 6. No paper shall be withdrawn from the files of the senate or assembly except temporarily, as is provided for in section four of this act, whether the same is in the charge of the regents, or of the clerks of either house, but every person applying therefor to the clerk of the senate or assembly, shall be entitled to receive a certified copy of any petition, memorial, remonstrance, resolution, affidavit, report or other paper of any kind on said files upon payment to said clerk for such copy and certificate, for his own use, the same fees which are by law charged by the secretary of state for engrossing and certifying exemplifications of records deposited in his office. A copy of any paper on the files of the senate, certified by the clerk of the senate, with his seal of office attached, or a copy of any paper on the files of the assembly, certified by the clerk of the assembly, with his seal of office attached, may be read and shall be received in evidence in any of the courts of this state, or before the canal commissioners, the canal appraisers, or before any state officer or other authority in like manner, and with the same effect as if the original was produced. The clerks of the senate and assembly respectively shall forthwith procure a suitable seal and press for the purposes of this act, and shall each deposit a certified copy of such seal in the office of the secretary of state.

Duty of joint library committee. § 7. It shall be the duty of the joint library committee of the legislature, annually, to examine and report to the legislature, the condition of the public records in the custody either of the clerks of the senate or assembly, of the regents, of the secretary of state, and all other state officers in the city of Albany, and particularly whether section five of this act is faithfully observed ; and the regents of the university shall report to the legislature, at the commencement of every session, a list of all papers taken from their custody in accordance with section four of this act which have not been returned, with the date of their withdrawal, and the name of the officer receiving the same.

TITLE III.

Of Applications to the Legislature.

- SEC. 1. Persons intending to apply for new county, etc., to give notice of their applications.
- 2. Notice to be given of applications for acts of incorporation, etc.
- 3. Notices how published, if no paper in county.
- 4. Contents of the notice in the case of corporations.
- 5. Contents in other cases.

SECTION 1. All persons applying to divide or alter the bounds of any county, city or village; or to erect a new county; or to incorporate a new city or village:

Certain applicants to give notice; notice how given. 7 Barb., 421.

And all persons applying for the removal of any court-house; or the imposing of a tax for making or improving a road, or for any other local purpose in any county, where all or any of the inhabitants of such county are proposed to be taxed:

Shall give notice of such intended application by advertisement to be published for at least six weeks successively, immediately before such application, or before the first day of the session at which the same is to be made, in a newspaper printed in the county or in each of the counties where the objects of such application are intended to be carried into effect, and also in case of intended application for the imposition of any tax as aforesaid, in the state paper.

[1 R. L., 268 ; L. 1818, 121.]

§ 2. Every association intending to apply to the legislature for an act of incorporation, and every corporation intending to apply for an alteration, amendment, or extension of its charter, shall cause the like notice of such application to be published in the state paper, and also in a newspaper printed in the county in which such corporation is intended to be, or shall have been, established.

[156] Ib.

[1 R. L., 268 ; L. 1818, 121.]

§ 3. If no newspaper be printed in a county in which any notice is required to be published, such notice shall be published in like manner, in the place nearest thereto in which a newspaper shall be printed.

Ib.

[1 R. L., 268 ; L. 1818, 121.]

§ 4. If the application be for an act of incorporation, the notice shall specify the amount of the capital stock requisite to carry the objects of such incorporation into effect; and if the application be for an alteration in any charter already granted, the notice shall state specifically the alteration intended to be applied for.

Contents of notice.

[1 R. L., 268 ; L. 1818, 121.]

§ 5. The notice of all other applications, of which notice is required to be given, shall specify the nature and objects of such intended applications.

Ib.

[1 R. L., 268 ; L. 1818, 121.]

L. 1829, Chap. 259 — An act relative to applications to the legislature for grants of escheated lands.

Notice of application. SECTION 1. Every person hereafter applying to the legislature for a release of lands escheated to the state, shall give the like notice of such application in the county where such lands may be situate, and in the state paper, as is required by the third title of the seventh chapter of the first part of the Revised Statutes.

L. 1829, Chap. 275 — An act requiring the publication of notices in certain cases.

Notices for constructing dams. SECTION 1. In all cases of applications to the legislature for the passage of laws authorizing the construction of dams, in or across the streams and waters of this state, which are by law public highways, like notices shall be given and published as are required to be given and published by the third title of the seventh chapter of the first part of the Revised Statutes, in cases of applications for acts of incorporation and in the other cases therein specified.

TITLE 4.

TITLE IV.

Of the Enactment and Promulgation of Statutes, and of the Time from which they take Effect.

- Sec. 1.** Powers of the houses in regard to originating and amending bills.
 2. Assent of two-thirds necessary to certain bills.
 3. No bill deemed to have passed with two-thirds unless so certified.
 4. Every bill passed and certified to be presented to governor.
 5. Governor, if he disapprove, to return it with objections to the house where it originated.
 6. If two-thirds agree to pass it notwithstanding objections, to be so certified.
 7. Like proceeding in other house.
 8. In such cases yeas and nays to be entered on journals.
 9. If bill be not returned by governor within ten days, it became a law
 10. Secretary of state to receive and deposit laws in his office.
 11. To certify and endorse upon every bill the time it becomes a law
 12. Unless a different time be prescribed, laws to take effect on the twentieth day after their passage.
 13. Secretary of state to deliver copies of laws to state printer.

Powers of two houses.

SECTION I. Any bill may originate in either house of the legislature; and all bills passed by one house may be amended by the other.

[Const., art. III, § 13.]

Two-thirds bills.
 4 Hill, 384;
 2 Hill, 85.

§ 2. The assent of two-thirds of the members elected to each branch of the legislature is requisite to every bill appropriating the public monies or property for local or private purposes, or creating, continuing, altering or renewing any body politic or corporate.

[Abrogated by Const., art. III, § 15.]

Ib.
 33 N. Y.,
 284.

§ 3. No bill shall be deemed to have been passed by the assent of two-thirds of the members elected to each house, unless so certified by the presiding officer of each house.

[33 N. Y., 284.]

[157]
 Governor's assent.

§ 4. Every bill thus passed and certified, must, before it becomes a law, be presented to the governor, if he approves, he must sign it; and he shall endorse thereon a certificate of his approbation, and deliver the same so endorsed to the secretary of state.

[1 R. L., 458, § 1. See Const., art. IV, § 9.]

§ 5. If the governor do not approve the bill, he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it.

TITLE 4.
Governor's objections.

[The same.]

§ 6. If two-thirds of the members present shall agree to pass the bill, notwithstanding such objections, the presiding officer of such house shall endorse thereon a certificate of such passage by the number so required.

Proceedings thereon.

[The same.]

§ 7. The bill shall then be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; if approved by two-thirds of the members present it becomes a law, and the presiding officer shall endorse thereon a certificate of its passage by the number required, and deliver the bill to the secretary of state.

Ib.

[The same.]

§ 8. In all such cases the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill be entered on the journal of each house respectively.

Yeas and nays.

[The same.]

§ 9. If a bill be not returned by the governor within ten days (Sundays excepted) after the same shall have been presented to him, it becomes a law in like manner as if he had signed it; unless the legislature, by their adjournment prevent its return, in which case it does not become a law.

If not returned.

[The same.]

§ 10. The secretary of state shall receive every bill which shall have passed the senate and assembly, and have been approved and signed by the governor, or which shall have become a law notwithstanding the objections of the governor, or which, not having been returned by the governor within ten days, shall have become a law; and shall deposit such laws in his office.

Duty of secretary of state. 33 N. Y., 275; 1 Rob., 145; 19 Abb. Pr. R., 431.

[1 R. L., 458, § 1.]

§ 11. He shall certify and endorse upon every such bill, the day, month and year, when the same so became a law, and such certificate shall be conclusive evidence of the facts therein declared.

Ib. 19 Abb. Pr. R., 431.

[4 Hill. 384; 19 Abb. Pr. R., 431.]

§ 12. Every law unless a different time shall be prescribed therein, shall commence and take effect throughout the state, on and not before the twentieth day after the day of its final passage, as certified by the secretary of state.

Time when laws take effect. 14 Abb. Pr., 134; 1 Rob., 145; 19 Abb. Pr. R., 431.

[14 Abb., 134; 1 Rob., 145; 19 Abb. Pr., 431.]

§ 13. The secretary of state shall forthwith deliver a certified copy of each law, other than acts of incorporation, deposited in his office, and of his endorsement thereon, to the state printer, to be printed and published by him, in the manner prescribed in the eighth chapter of this act.

Copy for publication.

[158] 1 Rob., 145; 19 Abb. Pr. R., 431.

[The laws relating to the public printing now in force, are contained in the supplementary title 6^a of this chapter.]

L. 1839, Chap. 263 — An act directing the secretary of state to furnish literary colleges with copies of the laws of the state of New York, and of the documents of the senate and assembly.

Duty of secretary of state. SECTION 1. The secretary of state is required hereafter to furnish annually each of the literary incorporated colleges of this state with one copy of the session laws of this state; and also with one copy of the documents of the senate, and one copy of the documents of the assembly; and the state treasurer shall pay on the warrant of the comptroller the amount of the expenses of carrying into execution the directions of this act.

L. 1842, Chap. 306 — An act in relation to the publication of the statutes of this state.

Indorsement not to be published. SECTION 1. It shall not be necessary for the secretary of state to furnish, nor for the state printer to publish, a copy of the certificate, which the secretary is required to indorse upon every bill, of the day, month, and year, when the same became a law.

How time and mode of passage of act to be indicated. § 2. In the publication of every law the secretary of state shall state when the same became a law, by inserting immediately under the title of the act the words, "Approved by the governor," and adding the month, day and year; and if the bill was certified by the presiding officers as having been passed by the assent of two-thirds of the members elected to each house, the secretary of state, after stating when the bill became a law, shall add the words, "Passed by a two-thirds vote." Except that in the case of laws which become such without the approval of the governor, the secretary of state shall, instead of the words "Approved by the governor," use the following words: "Became a law without the approval of the governor, in accordance with the provisions of article four, section nine of the constitution." And except that in the case of laws which become such notwithstanding the objections of the governor, instead of the words "Approved by the governor," he shall use the following words: "Became a law notwithstanding the objections of the governor, two-thirds of the members of each house having, in accordance with the provisions of article four, section nine of the constitution, duly passed the same." [*Thus amended by L. 1888, ch. 4.*]

Evidence thereof. § 3. The addition of the words, "by a two-third vote," shall be presumptive evidence that the bill was certified by the presiding officers as having been passed by the assent of two-thirds of the members elected to each house; and the absence of such words shall be presumptive evidence that the bill was not so certified by the presiding officers.

L. 1843, Chap. 98 — An act relative to the publication of the laws.

Certificate to session laws. SECTION 1. Each volume of the laws hereafter printed for the state shall contain the certificate of the secretary of state, to the effect that the said volume was printed under his direction.

Session laws when evidence. § 2. All laws passed by the legislature may be read in evidence from the volumes printed under the direction of the secretary of state, pursuant to the sixth section of the act entitled "An act to provide for the public printing," passed January 21, 1843, in the same manner and with the like effect as laws heretofore published by the state printer.

L. 1844, Chap. 176—An act to furnish copies of the statutes of this state to the several towns.

Laws destroyed by fire to be replaced. SECTION 1. Whenever it shall be proved to the satisfaction of the secretary of state that the revised statutes and session laws passed since 1830, belonging to any town, or either of the volumes of such statutes or laws have been destroyed by fire, he shall procure and furnish to the said town the said statutes and laws which may have been so destroyed, and the expenses thereof shall be paid by the treasurer, upon the warrant of the comptroller.

L. 1845, Chap. 280—An act for the publication of the session laws in two newspapers in each county of this state.

Laws of a general nature, how published. SECTION 1. All laws of a general nature, which shall hereafter be passed by the legislature of this state, shall be published in at least two newspapers in each county of this state where there is or may be hereafter two newspapers published; and in one newspaper in each county where but one newspaper is published or may be published.

Local laws. § 2. All laws of a local nature, which shall hereafter be passed by the legislature of this state, shall be published in like manner in each of the counties interested in the same.

Supervisors to designate printers. § 3. It shall be the duty of each board of supervisors in the several counties of this state, at their annual meeting, or at any special meeting called for the purpose, to appoint the printers for publishing the laws in their respective counties. The appointment shall be made in the following manner: The members of the board of supervisors representing, respectively, each of the two principal political parties into which the people of the county are divided, or a majority of the members of the board of supervisors representing, respectively, each of such political parties, shall designate, in writing, a paper fairly representing the political party to which they respectively belong, to publish the laws, and such designation shall be signed by the members making it, and filed with the clerk of the board of supervisors, and the two papers so designated shall publish the laws. In case the members of the board of supervisors representing either of the two principal political parties into which the people of the county are divided, or a majority of such members, cannot agree upon a paper, then, in that case, they shall make report to that effect to the clerk of the board of supervisors, and such board shall, by resolution, designate a paper fairly representing such political party to publish the laws. If there shall be but one paper published in the county, then, in that case, the laws shall be published in that paper. If either of the two principal parties into which the people of the county are divided shall have no representative among the members of the board of supervisors, then it shall be the duty of the board of supervisors, by resolution, to designate a paper fairly representing such political party, that is unrepresented in the board, to publish such laws, with the paper selected as hereinbefore provided. [*Thus amended by L. 1887, ch. 625, superseding L. 1886, ch. 515.*]

13 Abb. N. C., 421.

Duty of secretary of state. § 4. It shall be the duty of the secretary of state to transmit in the order in which they are passed, to each treasurer of the several counties of this state, copies of all laws of a general nature, and such as relate to the local affairs thereof, for publication in the manner provided for in this act. It shall be the duty of each treasurer to cause the same to be published in the papers designated for publishing them.

Money to be raised by tax. § 5. It shall be the duty of each board of supervisors, in the several counties of this state, in making out the assessment roll, to assess and levy on the taxable property of the county whose representative they are, such sums as shall be sufficient to defray the expenses of publishing the laws in the newspapers designated.

Compensation for publishing laws. § 6. The publisher of each of the papers so designated as aforesaid shall be entitled to receive for publication of the laws above specified a sum not exceeding fifty cents nor less than twenty cents, for each folio, except in counties having a city of fifty thousand inhabitants. In counties having a city of over fifty thousand inhabitants, by the last preceding census, the sum to be paid for such publication shall not be less than thirty cents or more than fifty cents for each folio. The specific rate per folio to be paid in each county shall be fixed by the board of supervisors thereof within the limits above specified. [*Thus amended by L. 1887, ch. 443.*]

L. 1847, Chap. 253 — An act concerning the enactment and promulgation of the statutes.

Certain bills to be deemed passed by "three-fifths." SECTION 1. Whenever by the terms of the constitution it is necessary that three-fifths of all the members elected to either house shall be present to constitute a quorum upon the final passage of a bill, such bill shall not be deemed to have passed unless so certified by the presiding officer of each house; and in the publication of every law in all cases where a bill is certified by the presiding officers as having been passed in the presence of three-fifths of all the members elected to each house, the secretary of state, after stating, in accordance with chapter three hundred and six of the laws of eighteen hundred and forty-two, as amended, when the bill became a law, shall add the words "passed, three-fifths being present." [*Thus amended by L. 1888, ch. 4.*]

Evidence of being so passed. § 2. The addition of the words "three-fifths being present" shall be presumptive evidence that the bill was certified by the presiding officers as having been passed in the presence of three-fifths of all the members elected to each house, and the absence of such words shall be presumptive evidence that the bill was not so certified by the presiding officers.

L. 1879, Chap. 212 — An act to provide for the distribution of the acts passed by the legislature to town clerks' offices.

[Repealed, L. 1882, ch. 283.]

L. 1847, Chap. 458 — An act in relation to the publication and distribution of the session laws of this state.

[Sections 1 and 2 are omitted as temporary.]

When and how session laws to be published in newspapers. § 3. All laws to be published in newspapers in pursuance of the act hereby amended¹ shall be published within four months after the final adjournment of the legislature in each year, and the whole of every law, which, in the ordinary type of the newspaper in which it shall be published, would not occupy more than two columns, shall be published in one edition of such paper; and when such law shall exceed two columns as aforesaid, the same shall be published as soon as by occupying the space of two such columns in a paper of the same kind, it may be done.

Names to be prefixed to each volume. § 4. There shall be prefixed to each volume of the session laws hereafter published, the names and residences of the governor, lieutenant-governor, senators and members of assembly, and presiding officers of both houses, in office at the time of the passage of the laws contained in such volumes. The constitution of this state shall be published with the laws of the present session.

¹ L. 1845, ch. 280, *ante*, p. 473.

L. 1885, Chap. 341 — An act to provide for the publication of the session laws from seventeen hundred and seventy-seven to eighteen hundred and one, inclusive.

Secretary of state to republish laws. SECTION 1. The secretary of state is directed to republish, verbatim, preserving the original spelling and punctuation, the session laws of this state from seventeen hundred and seventy-seven to eighteen hundred and one, both inclusive. References showing when each law was amended or repealed, may be added.

Material, style, etc. § 2. The republication shall be in octavo volumes of not less than six hundred nor more than seven hundred and fifty pages each, with an index to each volume, and of a material equal in style and quality to the session laws of eighteen hundred and eighty-four.

Number to be published and how distributed. § 3. The edition shall consist of one thousand copies and shall be distributed as follows: One copy to each judicial district library; one copy to the clerk's office of each county; one copy to each justice of the supreme court, and each judge of the court of appeals; one copy to each legislative library, and each state department; two hundred copies to the trustees of the state library, for literary and scientific exchanges. The remainder shall be delivered to the trustees of the state library, and such trustees shall reserve sufficient copies for the future use of the state, and in their discretion sell the balance at a price to be fixed by them, and pay the proceeds into the treasury of the state.

\$6,000 appropriated. § 4. Six thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated, to carry this act into effect, and the same shall be paid by the treasurer on the warrant of the comptroller in such sums and to such persons as the secretary of state shall approve. The work herein authorized shall not be begun unless it can be completed for the sum herein appropriated.

Statement on title page. § 5. The title page of each volume shall state that it was published pursuant to this act, and the same may be cited in any action or proceeding with the same force as the original edition.

L. 1888, Chap. 171 — An act to provide for the publication of the session laws of the colony of New York for the year seventeen hundred and seventy-four and seventeen hundred and seventy-five.

Secretary of state to republish laws of 1774 and 1775. SECTION 1. The secretary of state is directed to re-publish, verbatim, preserving the original spelling and punctuation, the session laws of the colony of New York, passed during the years seventeen hundred and seventy-four and seventeen hundred and seventy-five.

Style, etc. § 2. The re-publication shall be in one octavo volume, with an index, and of a material equal in size and quality to the session laws of eighteen hundred and eighty-seven.

Quantity; distribution. § 3. The edition shall consist of one thousand copies and shall be distributed as follows: Two copies to each judicial district library; one copy to the clerk's office of each county; one copy to each justice of the supreme court, and each judge of the court of appeals; two copies to each legislative library, and one to each state department; two hundred copies to the trustees of the state library, for literary and scientific exchanges, and one to each member of the legislature. The remainder shall be delivered to the trustees of the state library, and such trustees shall reserve sufficient copies for the future use of the state, and in their discretion sell the balance at a price to be fixed by them, and pay the proceeds into the treasury of the state.

Appropriation. § 4. The sum of seven hundred and fifty dollars or so much thereof as may be necessary, is hereby appropriated out of any money in the

treasury not otherwise appropriated, to carry this act into effect, and the same shall be paid by the treasurer, on the warrant of the comptroller, in such sums and to such persons as the secretary of state shall approve.

Title page; effect. § 5. The title page of the volume shall state that it was published pursuant to this act, and the same may be cited in any action or proceeding with the same force as the original edition.

L. 1888, Chap. 317 — An act to provide for the purchase and distribution of a chronological table of the statutes of the state.

Secretary of state to procure and furnish books. SECTION 1. The secretary of state is hereby authorized and required to purchase and furnish to the governor for the use of the executive chamber, the lieutenant-governor, the members of the senate and assembly, the justices of the supreme court and county judges, and the other bodies, officials and departments, excepting town clerks, who are now entitled by law to receive printed copies of the session laws, one set each, at such price as the secretary of state may deem reasonable not exceeding seven dollars per set, of "a table, chronologically arranged, of the statutes of the state of New York, amended, repealed, continued or otherwise modified or affected," prepared by Clarence F. Birdseye.

[Section 2 appropriates \$5,000.]

TITLE 5.

TITLE V.

Of the Mode of Taking Testimony in Certain Legislative Proceedings.

- SEC. 1. Chairmen of committees may administer oaths to witnesses.
 2. Chairman of certain committees may issue process for witnesses.
 3. Such chairman may also issue commissions to examine witnesses.
 4. When such commission may be issued during recess of legislature.
 5. How commissions to be directed; to be accompanied by interrogatories.
 6. Persons to whom such commission shall be directed, to take oath; they may issue process for witnesses.
 7. Unless otherwise directed witnesses to be examined in private.
 8. Witnesses to be examined on oath; their testimony to be reduced to writing.
 9. Depositions to be transmitted to chairman of the committee.
 10. Commission may be executed by one or more; may also be directed to one.
 11. The persons by whom the commission is executed, and also the witnesses examined, to be paid a reasonable compensation.
 12. Persons desirous to take testimony in regard to contested elections may apply to a judge or recorder, etc., for process.
 13. Such officer to issue a summons, directed to all such witnesses as shall be named.
 14. Summons, how served.
 15. Notification to adverse party, how to be issued.
 16. Notification, how to be served.
 17. Witnesses who shall attend, to be examined.
 18. Testimony to be reduced to writing, and to be transmitted to clerk of proper house.
 19. Witnesses to be entitled to same fees as in courts of record.
 20. Penalty of one hundred dollars on witnesses refusing or neglecting to attend as summoned.
 21. Fees of the officer for issuing summons and taking testimony.

Witnesses
before com-
mittees.
99 N.Y., 463.

SECTION 1. The chairman of any committee, either of the senate or assembly, or of any joint committee, shall be authorized to administer oaths to all witnesses coming before such committee for examination.

[L. 1814, p. 24.]

§ 2. Every chairman of a committee, which, by the terms of its appointment, shall be authorised to send for persons and papers, shall have power, under the direction of the committee, to issue compulsory process for the attendance of any witness within the state, whom the committee may wish to examine.

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Process for witnesses.

§ 3. Every such chairman shall also have power, under the direction of the committee, to issue a commission for the examination of any witness, who shall be without the jurisdiction of the state, or if within the state, shall be unable to attend, or who shall, for special reasons, be excused by the committee from attendance.

Commission to take testimony.

§ 4. Whenever a committee shall obtain authority for that purpose, from the house or legislature by which it shall be appointed, it may issue such commission to be executed during the recess of the legislature.

Ib., during recess.

§ 5. Every such commission shall be directed to such magistrates or other persons as the committee may designate; and interrogatories, framed by the committee, shall be annexed thereto.

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How directed, etc.

§ 6. The persons to whom such commissions shall be directed, if they reside within the state, and accept the trust, shall, before they enter on the execution of their duties, take the oath of office prescribed in the Constitution; and such commissioners shall have power to issue process to compel the attendance of the witnesses whom they shall be required to examine.

How executed.

§ 7. Unless otherwise instructed by the committee, it shall in all cases be* the duty of the commissioners to examine in private every witness attending before them, and not to make public the particulars of such examination, until the same shall be made public by order of the house or legislature appointing the committee.

Ib., examination private.

§ 8. Every witness so attending shall be examined on oath or affirmation, and his testimony shall be reduced to writing by the commissioners, and signed by the witness.

Witness to be sworn.

§ 9. When the commission shall have been duly executed, the commissioners shall annex thereto the depositions of the witnesses, duly certified by them, and shall, without delay, transmit the same, enclosed and under seal, to the chairman of the committee by which the commission shall have been issued.

Depositions to be transmitted.

§ 10. Every such commission may be executed by any one or more of the persons to whom the same shall be directed, and may, in the discretion of the committee issuing the same, be directed to a single person.

Who may execute commission.

§ 11. The persons executing any such commission, and all persons examined as witnesses by commissioners, or by a committee of either house, or of the legislature, shall be paid out of the treasury a reasonable allowance for their services, expenses and attendance, to be fixed by the committee, and certified by the chairman thereof, and to be audited by the comptroller.

Compensation to commissioners and witnesses.

§ 12. When any person shall intend to contest the election of any member of the senate or assembly, or to support any such election

Contested elections.

* In the first edition of the R. S., this word is printed "by;" but not so, in the original, on file in the office of the secretary of state.

TITLE 5.

so intended to be contested, and shall be desirous of obtaining testimony respecting any such election; he may make application to the first judge of a county, or to any judge of a county court of the degree of counsellor at law, or to the mayor or recorder of any city, for process to procure the attendance of the witnesses, whose testimony he may be desirous to obtain.

Summons
for wit-
nesses.

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§ 13. The officer to whom such application shall be made, shall thereupon issue a summons, directed to all such witnesses as shall be named by such applicant, and requiring the attendance of such witnesses before him, at some convenient time and place, to be expressed in such summons, in order to be then and there examined touching such election.

How
served.

§ 14. Such summons shall be served, by delivering a copy thereof to each witness named therein, a reasonable time before the day on which the attendance of such witness is required.

Notifica-
tion to
other party

§ 15. Whenever any summons shall be issued as aforesaid, the officer issuing the same shall deliver to the applicant a notification, directed to the opposite party, and stating the object of such application, the name of the applicant, and the time and place fixed for the examination of the witnesses.

How
served.

§ 16. Such notification shall be served on the opposite party, by delivering to him, or leaving at his usual place of abode, a copy thereof, a reasonable time before the day fixed for the aforesaid examination; and such examination shall not be proceeded in, without proof of the due service of such notification.

Witnesses,
how ex-
amined.

§ 17. All witnesses who shall attend, pursuant to said summons, and all other witnesses who shall be produced at the time and place aforesaid, by either of the parties, shall then and there be examined, on oath or affirmation, before the officer who issued the summons, touching all such matters and things respecting the election about to be contested, as shall be proposed by either of the parties.

Deposi-
tions, how
transmit-
ted.

§ 18. The testimony given on such examination, shall be reduced to writing by the officer taking the same, and signed by the witnesses respectively; after which, such officer shall transmit the said testimony, duly certified under his hand, together with a copy of the summons and notification issued by him, and of the proof of the service of such notification, enclosed and under seal, to the clerk of the senate, or the house of assembly, as the case may require.

Witness's
fees.

§ 19. Every witness attending by virtue of any such summons, shall be entitled to the same fees as are allowed to witnesses in civil suits in courts of record, to be paid by the party at whose instance such witness was summoned.

[Section 20 repealed by L. 1886, ch. 593.]

Fees of
officer.

§ 21. The following fees shall be allowed to the officer issuing such summons and taking such examination:

For issuing the summons, twenty-five cents;

For the notification to the opposite party, twenty-five cents;

For administering an oath or affirmation, twelve and a half cents;

For reducing the testimony of each witness to writing, ten cents for each folio; and five cents for every copy thereof, for each folio;

For certifying the testimony and enclosing the same to the clerk TITLE 6.
of the senate or assembly, twenty-five cents. [181]

[See L. 1886, ch. 653, *post.*]

L. 1875, Chap. 557 — An act in relation to the expenses of contested seats in the legislature of this state.

Unsuccessful contestant to bear his own expenses. SECTION 1. Hereafter, whenever the seat of any member of either branch of the legislature of this state shall be contested by any person claiming the right to said seat, no expense incurred by the contestant, in prosecuting his claim to the same, shall be paid by the state, unless said contestant shall be awarded said seat.

TITLE VI.

Of the Compensation of the Members of the Legislature, and their Officers, and the Contingent Expenses of the Senate and Assembly.

- SEC. 1. Members to receive a compensation, but no increase can take effect during year in which it was made. And no law can be passed increasing their pay beyond three dollars a day.
2. Members to receive three dollars a day for attendance and travelling.
 3. Distance how to be computed.
 4. Members who are prevented from attending by sickness, to have like pay.
 5. Comptroller to draw warrant on certificate of presiding officer.
 6. Salaries allowed to clerks; compensation for making indexes.
 7. Repealed.
 8. Contingent expenses to be paid out of treasury, and comptroller to make advances therefor as shall be necessary.
 9. Purchases to be made by clerks under direction of comptroller.
 10. Clerks to account with comptroller at the end of each session.

SECTION 1. The members of the legislature are entitled to receive for their services, a compensation to be ascertained by law. and paid out of the public treasury; but no increase of the compensation can take effect, during the year in which it shall have been made. And no law can be passed increasing the compensation of the members of the legislature beyond the sum of three dollars a day.

Provisions concerning compensation.

[Abrogated, Const., art. III, § 6.]

§ 2. Each member of the senate and assembly, shall be entitled to receive three dollars for every day he shall attend either of them; and the like compensation for every twenty miles of the distance from the place of his residence to the place of the meeting of his house.

Amount of daily pay.

[The same.]

§ 3. Such distance shall be estimated by the most usual route, and shall be computed both for the travelling to, and returning from, the place of meeting.

Travelling.

[The same.]

§ 4. If any member of the senate and assembly shall, after his arrival at the place of meeting of either house, or on his way thereto, be prevented by indisposition, from attending either of the said houses, he shall be entitled to the like compensation for every day he shall be so prevented.

Sickness.

[The same.]

TITLE 6.
Certificate
of presid-
ing officers.

[182]

§ 5. The comptroller shall draw his warrant for the payment of such sum as may so become due to each member respectively, upon the receipt of a certificate, signed by the president of the senate, or the speaker of the assembly (as the case may be), setting forth the number of days that the member in whose favor it shall be given may have attended, and the estimated distance of his place of residence, from the place of meeting.

[See L. 1875, ch. 9, § 2, *post.*]

Salaries of
chief
clerks of
senate and
assembly.

§ 6. There shall be allowed to the chief clerk of the senate, and to the chief clerk of the assembly, an annual salary of twelve hundred dollars each, in lieu of all other compensation. And the clerk of the senate shall be authorized to appoint a journal clerk, an engrossing clerk, and one clerk for miscellaneous duties, each of whom shall receive, as compensation for his services, six hundred dollars. The clerk of the assembly shall be authorized to appoint a journal clerk, an engrossing clerk, and two clerks for miscellaneous duties, each of whom shall receive, as compensation for his services, six hundred dollars. [*Thus amended by L. 1853, ch. 530.*]

[But this section is abrogated by L. 1886, ch. 653, *post.*
[Section 7 was repealed by L. 1853, ch. 530.]

Duty of
clerks.

§ 8. The clerk of the senate shall keep a journal of executive proceedings, and each of the said chief clerks as aforesaid shall prepare indexes to the journals and documents of the two houses, the same to be subject to the approval of the secretary of state, and without any other compensation or allowance for the same than is above provided. [*Thus amended by L. 1853, ch. 530.*]

[Abrogated by L. 1886, ch. 588, *post.*]

Pay of
officers.

§ 9. The sergeant-at-arms and assistant sergeant-at-arms of each house (the latter of whom shall act as postmaster thereof), the door-keepers and assistant door-keepers of each house, and the librarian and assistant librarian of the assembly, shall be entitled to the same mileage and compensation for each day's actual attendance as members of the legislature, to be certified in the same manner; and there shall be paid to each of the messengers of the two houses (to wit: three of the senate and ten of the assembly) the sum of one dollar for each day's actual attendance in the performance of their duties; and besides the officers above named, none other or others shall be employed or paid except by bill for that purpose; and no extra allowance shall be made to the officers above named on any pretence whatever. [*Thus amended by L. 1853, ch. 530.*]

[Abrogated by L. 1886, ch. 653, *post.*]

Extra pay
prohibited.

§ 10. No fee, per diem compensation, or mileage shall be allowed to any officer or messenger of either branch of the legislature, for, or on account of his attendance upon the opening of the next succeeding session of said body, except to the clerk thereof, who shall be allowed fifty dollars in lieu of all mileage, pay, or perquisites therefor. [*Thus amended by L. 1853, ch. 530.*]

Contingent
expenses
of the leg-
islature.

§ 11. All purchases of furniture and other articles mentioned in this section, for the use of the legislature, or of either house, shall be

made by the clerks of the respective houses, under the direction of the comptroller, and subject to his approval. And all moneys required to defray the expenses of such furniture, of the legislative manual, of diagrams, and of file boards, for bills and documents of the two houses, of postage on papers and documents sent by members through the mails, and of transmitting the session laws, journals and documents of the two houses, to the members and officers thereof, shall be paid out of the general fund; but no money shall be paid out of the treasury by virtue of any resolution of either house of the legislature; and the appropriation known as the contingent fund is hereby abolished. [Added by L. 1853, ch. 530, as a substitute for original §§ 11 and 12.]

TITLE 6.

§ 13. The clerks of the senate and assembly shall account to the comptroller at the end of each session for any moneys received by them, and shall furnish to him satisfactory evidence that the charges contained in their accounts are correct and reasonable, and all accounts and vouchers for the expenses provided for in the last two preceding sections of this act shall be presented for audit at the end of each month, and shall, as far as practicable, include all expenses and payments up to the time of rendering such accounts. The comptroller shall make such rules and regulations with reference to this and the two preceding sections of this act, and to enforce the observance of the same, as to him shall seem proper. [Added by L. 1853, ch. 530.]

The clerks
to render
accounts.

L. 1842, Chap. 310 – An act to regulate purchases for the state and the taking of vouchers.

[Section 1 is on p. 532, post.]

For the senate and assembly. § 2. The clerk of the senate, and the clerk of the assembly, shall each before or within ten days after every session of the legislature, file in the comptroller's office an abstract, in such form and containing such particulars as the comptroller shall direct, of all newspapers ordered by him for the members of their respective houses, and the vouchers for the payment thereof, shall, when presented for audit, be marked with a proper reference to the part of said abstract in which the same is charged; all other accounts and vouchers for the contingent expenses of either house of the legislature shall be presented for audit at least once a month, and shall as far as practicable include all payments up to the time of rendering the accounts. The comptroller shall make rules and regulations to enforce the observance of the provisions of this section.

Fuel and stationery for senate and assembly, capitol and state offices. § 3. Fuel and stationery for the senate and assembly, for the several state offices, and fuel to be used in the capitol, so far as a probable estimate thereof for a year or less period can be made, shall be purchased on sealed proposals to be received on public notice. The comptroller shall employ the proper agents to execute this section of this act, fix, and by the comptroller's warrant on the treasury, pay their compensation, and the expense and cost of making such purchases. He shall from time to time make rules and regulations to be observed in giving such notice, accepting such proposals, and in relation to the security to be taken for performing said proposals and for preserving said fuel and stationery, distributing them to the proper officers and departments for use, and accounting for the use thereof. He shall report such rules and regulations and the purchases and distributions had under this section to the legislature at the annual session. The cost of the fuel

and stationery which shall be distributed to the canal department shall be refunded to the treasury by the commissioners of the canal fund.

L. 1853, Chap. 530—An act to amend title six of chapter seven of part one of the Revised Statutes.

[Sections 1-6 amend the foregoing title of the R. S.]

Stationery, how furnished. § 7 The comptroller is hereby prohibited from furnishing the members and officers of the legislature with stationery in the manner now provided; and the clerks of either house are authorized and required to furnish the members, and officers, and reporters thereof, with the requisite supply of stationery, pen-knives, and newspapers, the aggregate amount for each member and officer and reporter, not to exceed the sum of thirty dollars, and to be paid for out of the treasury; but nothing in this section shall be construed to prevent the comptroller from furnishing the clerks of the two houses with the requisite amount of stationery for recording the official proceedings in the manner now provided. [*Thus amended by L. 1854, ch. 51.*]

[Section 8 amends the foregoing title of the R. S.]

Printing. § 9. It shall not be lawful for either branch of the legislature, without the consent of the other, to order more than four thousand copies of any paper or document, relating to the business before it, or of any report made to it, or to the legislature, printed, or the purchase of any books for the use of the legislature or the members thereof, the aggregate cost of which shall exceed the sum of one hundred dollars, or to appoint any traveling committee, either of its own members, or of other persons, for any purpose whatever, at the public expense, except in case of contested elections.

When not paid for out of public funds. § 10. Any printing done, or books purchased, or committees appointed, or other action taken inconsistent with the provisions of this act, shall not be paid for by the comptroller or any officers of this state, out of the public funds.

Superintendent's duty; trustees of the capitol to audit accounts. § 11. It shall be the duty of the superintendent of the capitol, at the close of each session of the legislature, to collect the books of the senate and assembly library, and put them in order; to put and keep in order the several halls and rooms in the use of the legislature, with their furniture; he shall also take care that the occupied parts of the building are kept warmed and ventilated, swept and cleaned, under the direction of the trustees of the capitol; he shall employ so many necessary assistants for that purpose, at such prices as the trustees of the capitol shall approve; he shall render monthly accounts to the trustees of the capitol, who shall audit and certify the same, and they shall thereupon be paid by the treasurer, on the warrant of the comptroller.

L. 1859, Chap. 1—An act to regulate the supply of stationery to members and officers of the legislature.

Clerks to furnish stationery and newspapers. SECTION 1. The clerks of the senate and assembly shall, when requested by any senator, or member of the house of assembly, or any officer or reporter or other person attached to or employed by the senate or assembly who shall be entitled by law to receive an allowance for stationery and newspapers, furnish to such person such stationery or newspapers as he shall require, to an amount not exceeding thirty dollars.

Clerk to draw an order, etc. § 2. When requested by any such person specified in the preceding section, the clerk shall draw an order for such newspapers as the individual may designate, upon the publishers or venders of the same, as is now the custom; and if requested by the aforesaid persons, the clerk shall issue

to such person an order, upon such stationer or bookseller as the person shall designate, for stationery to such an amount as such person may require, to an amount which, when added to the price of the newspapers received by such senator, member or officer, or other person aforesaid, shall not exceed the sum of thirty dollars.

Order to be a voucher for clerk. § 3. The order, mentioned in the last section returned to the clerk accompanied by a certificate of the person in whose favor the same was drawn, that he has received the amount of the stationery mentioned in the order from the stationer or bookseller named therein, shall be a sufficient voucher to the clerk, and from him to the comptroller, that the same has been delivered to and received by such person.

[Section 4 repeals inconsistent acts.]

L. 1860, Chap. 395 — An act in relation to legislative stationery.

Clerks to purchase stationery. SECTION 1. The clerks of the senate and assembly are hereby respectively authorized to procure and purchase all necessary stationery, printed blanks, and other articles necessary for official use in their respective departments, and the department of the sergeant-at-arms.

Vouchers for purchases to be paid by comptroller. § 2. The vouchers for all purchases made by said clerks in pursuance of the preceding section, shall be allowed and paid by the comptroller, in the settlement of their official accounts, in the same manner that other contingent expenses of their respective departments have been heretofore allowed and paid.

[Section 3 repeals inconsistent acts.]

L. 1875, Chap. 9 — An act to provide for the deficiency in the appropriation for the salaries of certain officers of the government.

[Section 1 is omitted as temporary.]

Salaries of members of legislature. § 2. The salaries of the members of the legislature shall be paid at the rate of ten dollars per day, commencing with the present session; but the aggregate of payments during the sessions shall not exceed twelve hundred dollars to each member, and the balance of such salaries shall be paid on the final adjournment of the legislature.

L. 1879, Chap. 379 — An act prescribing the officers and employees that may be elected, appointed or employed by the senate and assembly, fixing the salary and compensation thereof, and regulating the proceedings of investigating committees, and providing for the payment of the expenses thereof.

[This act appears to be entirely superseded by L. 1886, ch. 653, which immediately follows.]

L. 1886, Chap. 653 — An act to revise and amend chapter three hundred and seventy-nine of the laws of eighteen hundred and seventy-nine, entitled "An act prescribing the officers and employees that may be elected, appointed or employed by the senate and assembly, fixing the salary and compensation thereof, and regulating the proceedings of investigating committees, and providing for the payment of the expenses thereof."

Officers of the senate; clerks of committees. SECTION 1. The senate may elect or appoint a clerk, a sergeant-at-arms, a stenographer, a postmaster, who shall also act as assistant sergeant-at-arms, an assistant postmaster, a post-office messenger, a principal door-keeper and four assistant door-keepers, one person who shall act

as janitor of the senate chamber and its anterooms, and one assistant janitor, nine persons to serve as clerks of committees, one of whom shall be designated to serve as clerk to the committee on finance, one to the committee on judiciary, one to the committee on cities, one to the committee on railroads, and the remaining five to serve under the direction of the clerk of the senate, upon the remaining standing committees of the senate.

President's clerk and messenger. § 2. The president of the senate may appoint a clerk and a messenger, to be known and designated as the president's clerk and the president's messenger.

Clerk of senate, appointees of. § 3. The clerk of the senate may appoint one assistant clerk, a journal clerk, an assistant journal clerk, four deputy clerks, a clerk to the committee on engrossed bills, a librarian, and an assistant librarian, an assistant financial clerk and bank messenger, a superintendent of documents, an assistant superintendent of documents, two messengers and ten pages, who shall be appointed for the session and shall not be under fourteen years of age, and they shall serve under the direction of the clerk of the senate as messengers to committees.

Officers of assembly; clerks of committees. § 4. The assembly may elect or appoint a clerk, a sergeant-at-arms, a stenographer, a principal door-keeper, who shall also act as assistant sergeant-at-arms, a first and a second assistant, and six assistant door-keepers, a postmaster, and an assistant postmaster, a post-office messenger, a janitor of the assembly chamber and its anterooms, and one assistant janitor, and ten clerks of committees, one of whom shall be designated to serve as clerk to the committee on ways and means, one as clerk to the committee on appropriations, who shall also act as clerk to the sub-committee of the whole, one as clerk to the committee on judiciary, one as clerk to the committee on revision, one as clerk to the committee on cities, one as clerk to the committee on railroads, and the remaining four to serve under the direction of the clerk of the assembly, upon the remaining standing committees of the assembly, and three general messengers.

Speaker's clerk and messenger. § 5. The speaker of the assembly may appoint a clerk and a messenger, who shall be known and designated as the speaker's clerk and speaker's messenger respectively.

Clerk of assembly, appointees of. § 6. The clerk of the assembly may appoint an assistant clerk, a journal clerk, an assistant journal clerk, and eight deputy clerks, one of whom shall act as clerk to the committee on engrossed bills, an assistant clerk to the committee on engrossed bills, a librarian, and an assistant librarian, an assistant financial clerk and bank messenger, a superintendent of the wrapping department and mail and document carrier, a superintendent of documents, three messengers, one of whom shall have charge of the pages under the direction of the clerk of the assembly, and twenty-five pages, who shall also act as messengers to committees under the direction of the clerk of the assembly. [*Thus amended by L. 1887, ch. 193.*]

Compensation of officers and employees; duties of stenographers. § 7. The following compensation shall be paid for the annual session of the legislature: To the clerks, of each house, three thousand five hundred dollars; to the assistant clerks and journal clerks of the senate and assembly, each two thousand dollars; to the assistant journal clerks of the senate and assembly, respectively, and the deputy clerks of each house, fifteen hundred dollars each; to the assistant financial clerk and bank messenger of the assembly, ten dollars per day; to the clerk of the president of the senate, seven dollars per day; to the speaker's clerk, seven dollars per day; to the sergeant-at-arms, the librarians and assistant librarians, the postmasters and assistant postmasters, and the principal door-keepers of the senate and assembly, to each of them six dollars per day; to the assistant door-keepers, the janitors and assistant janitors, the superintendent of documents of the senate and assembly, each five dollars per day; to the stenographers of the senate and assembly, each fifteen hundred dollars. The duties of the stenographers shall be to be present at every session of the body for which they are respectively elected

or appointed, and to take stenographic notes of the debates in such respective bodies, and in the committee of the whole thereof, and to furnish a copy of the same written out in long hand to any member of the body for which he is elected or appointed stenographer aforesaid. To the clerks of the committees of ways and means, appropriations, judiciary and affairs of cities of the assembly, and the finance, judiciary and affairs of cities of the senate, seven dollars per day each; and to the clerk of the committee on engrossed bills of the senate, six dollars per day; to the clerks of the other committees of each house, five dollars per day each; to the assistant clerk of the committee on engrossed bills of the assembly, five dollars per day; to the post-office messengers of each house, three dollars per day each; to the messenger of the president of the senate and the speaker's messenger, respectively, each three dollars per day; to the assistant financial clerk and bank messenger of the senate, ten dollars per day; to the superintendent of the wrapping department and mail and document carrier of the assembly and the assistant superintendent of documents of the senate, three dollars per day; to each of the general messengers of the senate and assembly, three dollars per day; to the clerk's messengers of the senate and assembly, three dollars per day; and to the pages each two dollars per day. [*Thus amended by L. 1887, ch. 193.*]

Compensation during extra sessions; in impeachment trials; at opening of next session; special duties as to clerk's manual; indexing, etc.; extra clerical services; payments to officers, etc., how certified and allowed; appointments, how entered on journal; pay, when to commence. § 8. The employees of the senate and assembly, whether appointed or elected, shall be paid the same per diem compensation respectively for each day of any extra session of the legislature which may be held, as their respective compensation or per diem allowance as established by this act would give per day of the regular session of the legislature of the same year. And the officers and employees of the senate who may be designated to attend upon the senate when sitting as a court for the trial of impeachments, or upon the trial of judicial or other officers on the recommendation of the governor, shall be paid the same per diem allowance as for attendance at an extra session of the legislature as herein provided. And the clerks of the senate and assembly shall annually, without extra compensation, revise, mail and send to the members of the legislature, previous to the organization thereof, the clerk's manual, and also within thirty days after the organization of the legislature prepare a statistical list of the members and officers with their boarding-houses. And the postmasters, assistant postmasters and post-office messengers shall perform all the labors in the post-offices of their respective houses. And there shall be paid annually to the clerk of the senate five hundred dollars, and to the clerk of the assembly seven hundred and fifty dollars for indexing the journals, bills and documents of the senate and assembly; and hereafter the indexes of the journals, bills and documents of the two houses of the legislature shall be made by the clerks of the respective houses instead of by the secretary of state, as heretofore provided by law. And there shall be paid annually to the clerk of the senate five hundred dollars, and to the clerk of the assembly seven hundred and fifty dollars, or so much thereof as shall be necessary, for extra clerical services and engrossing, and no extra allowance shall be made to the officers and employees above named on any pretence whatever. The compensation and per diem allowance in this act provided for shall be paid on the warrant of the comptroller upon the certificate of the speaker for the officers and employees of the assembly, and the president of the senate for the officers and employees of the senate. All appointments made under this act shall be entered on the journal of the house wherein they are so made such entry shall specify the date of the appointment, and the length of time the same is to be continued. The pay of officers who receive by the provisions of this act a per diem compensation shall commence at the date of their appointment. No fee or per diem compensation shall be allowed to any officer of either branch of the legislature for or on account of his attendance upon the opening of the next succeeding session of said body, except to the clerk, or in his absence or disability, the assistant clerk, journal clerk, speaker's clerk, sergeant-at-arms, postmaster, librarian and principal door-keeper

of the senate and assembly, and an assistant door-keeper and four pages in the senate, and three assistant door-keepers, two messengers and six pages in the assembly. The presiding officers of the respective houses shall designate which assistant door-keeper and pages of the senate and which assistant door-keepers, pages and messengers of the assembly may attend upon the organization of the next legislature, and no other officers of either branch of the legislature shall be allowed to attend upon such organization. Such designation shall be made before the close of the session, and be entered upon the journals of the respective houses. Said officers named in this section who shall serve at the opening of the next session of the legislature aforesaid, shall receive the same rate of compensation during each day's service as they were entitled by law to receive for like services at the preceding session of the legislature.

Designation of officers to perform certain duty after adjournment; how paid. § 9. The president of the senate may designate three officers of the senate, and the speaker of the assembly may designate three officers of the assembly, to remain after the adjournment of the legislature to perform duty under the direction of the clerk of each house respectively, for a period not exceeding ten days. The officers so designated shall receive the same per diem compensation respectively as they were entitled to receive in their respective offices for the session, the same to be paid by the comptroller on the certificate of the clerk of the house for which they were respectively appointed.

Stenographers to special committees, how appointed; assignment of special duties to officers, etc. § 10. No additional officers or employees shall be elected or appointed by the senate or assembly, except that either house, by a majority vote thereof, may employ a stenographer for a committee of investigation or other special committee whenever necessary. The president and clerk of the senate are hereby authorized on the part of the senate, and the speaker and clerk of the assembly are hereby authorized on the part of the assembly, to detail any of the officers or employees in their respective houses to perform such duties in addition to those ordinarily performed as they may deem advisable to promote the business of either house.

Sub-committees, when may make special investigations; committees and sub-committees may send for persons and papers, etc.; witnesses, how paid; necessary expenses outside of Albany, how audited and paid. § 11. Whenever any standing committee of either house shall be charged with the duty of making an inquiry or investigation, such committee shall have power to appoint a sub-committee, to consist of not less than three of its own members to make such inquiry or investigation, and to take testimony in relation thereto; and such committee or sub-committee shall have all the power and authority that is now conferred by law upon any committee which, by the terms of its appointment, is authorized to send for persons and papers; and the chairman of any committee or sub-committee shall have all the power and authority that is now conferred by law upon the chairman or any committee, which, by the terms of its appointment, is authorized to send for persons and papers, and the chairman of such committee and of such sub-committee shall be authorized to administer oaths to all witnesses coming before such committee or sub-committee for examination. Every witness attending as such before any such committee or sub-committee shall be entitled to the same fees as are allowed witnesses in civil suits in courts of record. Such fees need not be prepaid, but the comptroller shall draw his warrant for the payment of the amount thereof, when the same shall have been certified to by the chairman of such committee, and duly proved by affidavit or otherwise, to the satisfaction of the said comptroller. Whenever, by resolution of either house, a committee shall be directed to conduct an investigation, or take testimony in any other place than in the city of Albany, the comptroller shall draw his warrant for the payment of the actual and necessary expenses incurred thereby by such committee or sub-committee having in charge such investigation, inquiry or taking testimony, together with the actual and necessary expenses of such officers and employees as shall be authorized to accompany them;

but no such expense shall be paid until a bill of the items thereof, in detail, shall be rendered to the comptroller, and the correctness thereof shall be certified by the chairman of such committee, and duly approved by the president of the senate, in a case of a committee of the senate, and by the speaker of the assembly in the case of a committee of the assembly, and duly proved by affidavit or otherwise, to the satisfaction of the comptroller.

[Section 12 repeals prior acts.]

[Supplementary Title.]

TITLE 6A.

Of the Public Printing.

L. 1846, Chap. 24—An act to provide for the public printing.

[Section 1 repeals L. 1843, ch. 4.]

Printing for state officers how to be done. § 2. The printing for the senate and assembly,* for the comptroller, secretary of state, attorney and surveyor-general, commissioners of the land office and canal fund, the banking department, and all other printing for any and every of the state officers, shall hereafter be done as follows: The comptroller and secretary of state shall give at least twenty days' notice in two public newspapers published in each senate district in this state, that they will, on or before a day to be specified in said notice, receive sealed proposals for the printing provided to be done under this section, for two years, to be performed in the same style of execution as to type and paper, as that heretofore furnished; and that they will receive separate bids for the printing to be done for the senate, assembly, and public offices, or any portion of the printing to be done for the public offices; at the expiration of which time they shall open said proposals, and enter into a contract or contracts with such person or firm as shall make the lowest offer or bid to do such printing, and shall give security in a bond to the people of the state of New York, to the satisfaction of the comptroller and secretary of state, for the faithful performance of his or their contract, which contract shall continue in force for two years from the time of making the same.

Notice of receiving proposals for printing session laws and slips; work may be done in parts; when to be done; terms upon which copies will be furnished to public; penalty, when and how enforced. § 3. The secretary of state and comptroller shall annually, on or before the first day of April in each year, give at least twenty days' notice, in at least two public newspapers, published in the city of Albany, that they will, on or before a day to be specified in said notice, receive sealed proposals for the printing of the slips of the session laws, in such numbers as the secretary of state shall order, and for the printing and publishing complete of two thousand copies (or such additional copies as the legislature by concurrent resolution may order) of the session laws for the use of the state; the work to be performed in the city of Albany, in the same style of execution as to type and paper as heretofore furnished. The said secretary of state and comptroller shall, in such notice, invite proposals for the printing separately of such laws passed at any session of the legislature as may be deemed by the secretary of state to be general laws within forty days after the adjournment of the legislature, and the residue of the laws so passed, to be printed and published separately within ten days after the time limited for the completion of the printing of the general laws; or for the printing and publishing in a continuous volume or volumes, of all the laws so passed, within twenty days after the secretary of state shall have furnished the copy for the same; such proposals shall also state the terms upon which copies of the session laws will be furnished to the public, after the completion and delivery of the state edition to the state binder, and the place where the same will be kept on sale in the city of Albany and the place where the same will also be kept on sale in the city of New York. And the said slips of the laws shall be printed and delivered to the secretary of state, at his office, within three days after the said secretary of state shall

* Superseded as to legislative printing by L. 1886, ch. 588, *post*.

have furnished the copy for the same. Upon receiving such proposals they shall enter into a contract with the person or persons who shall make the lowest bid and furnish sufficient security, of not less than ten thousand dollars, to be approved by the said secretary of state and comptroller, for the performance of the same; provided always that such secretary of state and comptroller may discriminate in favor of such bid as they may deem most favorable both to the state and the public, as to price, time of delivery and manner of execution, and they may reject any or all bids deemed unfavorable or disadvantageous, and they may advertise anew for such work. It shall be the duty of the comptroller, upon the failure or non-performance in any respect of the terms of the contract entered into, as herein provided, to withhold payment from the contractor for printing and publishing done under the same, and to enforce the penalty named in the bond executed in pursuance hereof, and the penalty shall be recoverable, as liquidated damages, in an action by the people. [*Thus amended by L. 1881, ch. 5, superseding L. 1870, ch. 113.*]

[Section 4 was repealed by L. 1854, ch. 197.]

Copy of certificate to be published. § 5. The comptroller and secretary of state shall, immediately after making and filing their certificate, in the preceding section provided for, publish in the present state paper a copy of such certificate.

Guarantor by whom to be approved. § 6. To every bid made under any of the provisions of this act, there shall be annexed a guaranty subscribed by a guarantor of sufficient ability, that the person making such bid will, if the same be accepted, enter into a contract according to the terms thereof, and give the security required by law in such case, within the time specified for that purpose in such notice; and to every such guaranty, a certificate shall be annexed, of the secretary of state, comptroller, attorney-general, treasurer, surveyor-general, or the first judge of the county where the guarantor resides, that the guarantor is a man of property and able to make good his guaranty.

[Section 7 omitted as temporary.]

[Section 8 repeals inconsistent acts.]

Office of state printer abolished. § 9. The office of state printer is hereby abolished.

L. 1847, Chap. 254—An act concerning the laws, journals and documents of the legislature.

Secretary of state to prepare indexes. SECTION 1. The secretary of state shall annually cause indexes to the laws, and also to the journals and documents of the two houses, to be prepared as soon as practicable after the adjournment of the legislature.

[By L. 1836, ch. 653, § 8, *ante*, p. 485, the clerks of the two houses are required to index the journals, bills and documents.]

[Sections 2 to 5 relate to legislative printing and are clearly superseded by L. 1886, ch. 588, *post*. They are consequently repealed by § 13 of that act. Whether any of the following sections, or any parts thereof, are also thus superseded and repealed must be left to the reader's judgment.]

Copies of bills, journals and documents to be full bound. § 6. There shall be bound annually in full binding, four copies of the senate and assembly bills, and sixteen copies of the journals and documents of both houses for the senate library, and eight copies of said bills and eighteen copies of the said journals and documents for the assembly library, and seven copies of the journals and documents of each house for the state officers, and the residue of the journals and documents shall be bound in boards.

Proposals for binding. § 7. The said binding of journals and documents, together with the session laws, shall be done in the manner following: The secretary of state and comptroller shall give at least twenty days' notice in two public newspapers in each of the eight judicial districts of this state, that they will on or before a day to be specified in said notice, receive sealed proposals for the binding provided to be done according to this act for two years, to be performed in a substantial manner and in the same style of execution as the said binding has heretofore been done; at the expiration of which time they shall open said proposals

and enter into a contract with such person or firm as shall make the lowest offer or bid to do such binding, and shall give security in a bond to the people of the state of New York to the satisfaction of the secretary of state and comptroller for the faithful performance of his or their contract, which contract shall continue in force from the time of making the same; but nothing herein shall affect the existing contract for binding the journals, as contained in the contract for the public printing, nor shall the secretary of state and comptroller be compelled to accept any bid unless they shall deem the same advantageous to the state.

Notice, how to be given. § 8. The notice provided to be given under the last preceding section, after the first notice so to be given shall be given and published at the same time as the notice for printing required to be published in and by the first* section of the act entitled "An act to provide for the public printing," passed March 5, 1846.

To each bid a guaranty to be annexed. § 9. To every bid made under the provisions of this act there shall be annexed a guaranty, subscribed by a guarantor of sufficient ability, that the person making such bid will, if the same be accepted, enter into a contract according to the terms thereof, and give the security required by law in such case within the time specified for that purpose in such notice; and to every such guaranty a certificate shall be annexed of the secretary of state, comptroller, attorney-general, treasurer or judge of the county where the guarantor resides, that the guarantor is a man of property and able to make good his guaranty.

Distribution of bills, etc. § 10. Immediately after the bills, laws, journals and documents shall be bound in the manner provided for in this act, the secretary of state shall distribute the same as follows:

1. To the clerk of the senate for the use of the senate, four copies of said bills, and to the clerk of the assembly for the use of the assembly, eight copies of said bills.

2. To the clerk of the senate for the use of the senate, sixteen copies of the laws, journals and documents, and to the clerk of the assembly for the use of the assembly, eighteen copies.

3. To each of the following officers and persons, namely, the governor for the use of the executive chamber, lieutenant-governor, the members of the senate and assembly, the clerks of the two houses, the judges of the court of appeals, the justices of the supreme court, the secretary of state for his office, the comptroller for his office, the treasurer for his office, the state engineer and surveyor for his office, the attorney-general for his office, the adjutant-general for his office, the chief clerk of the canal department for that department, the canal commissioners for their office, the inspectors of the state prisons, to be delivered by them to their successors in office, the commissioners of the code and practice, the librarian of the state library for the use of the library, and the several county clerks, to be kept in their respective offices, one copy.

4. To each of the following officers, namely, town clerks, for the use of their respective towns, district-attorneys, to be delivered to their successors in office, supervisors' clerks, for the use of the board of supervisors, and surrogates, for the use of the surrogates' courts, and to the mayors of the several cities, for the use of said cities, one copy of the laws without the journals. [*Thus amended by L. 1874, ch. 15.*]

5. To each of the present deputy clerks, sergeants-at-arms, door-keepers, assistant door-keepers, porters, messengers and reporters of the two houses, one copy of the journals and documents of the present session.

Copies to be sold at cost. § 11. In addition to the number above provided for, there shall be twenty-five copies of the journals and documents printed and bound in the same manner as is provided in this act, which shall be offered for sale by the secretary of state at their cost, the proceeds of which shall be paid into the treasury.

[Section 12 is omitted as temporary.]

* So in the original. The second section was intended.

L. 1871, Chap. 715 — An act making appropriations for certain expenses of government, and for supplying deficiencies in former appropriations.

[The annual "supply bill."]

Extract from § 1. Hereafter no moneys appropriated for printing shall be paid, in cases where such printing has been made in contravention of law.

L. 1881, Chap. 215 — An act to provide for and define the public or legislative printing.

[Superseded by L. 1886, ch. 588.]

L. 1886, Chap. 588 — An act to provide for and define the public or legislative printing.

Notice inviting proposals; contract with lowest bidder, for two years; bidder to give security; right to reject proposals and re-advertise; blanks for proposals. SECTION 1. The secretary of state, attorney-general and comptroller shall on or before the first day of May, eighteen hundred and eighty-seven, and on or before the first day of May in each alternate year thereafter, give notice in two public newspapers of different politics, published in each of the cities of Albany, Troy, New York, Syracuse, Rochester and Buffalo, that they will, thirty days after the publication of said notice, and on a day named therein, receive sealed proposals for the whole of the printing and other work provided to be done under this act, for two years commencing on the first day of October next thereafter, to be performed in the manner to be prescribed in such notice, at the expiration of which time they shall open said proposals and enter into a contract with such person or firm as shall make the lowest offer or offers computed upon the basis of the number of ems of composition and pages printed during the preceding year, and the number of copies called for by this act. Said person or firm shall give security to the people of the state of New York, to the satisfaction of the secretary of state, attorney-general and comptroller, for the faithful performance of his or their contracts, which shall be made and continued in force for two years, commencing on the first day of October next after the opening of said bids. Said state officers shall have the right to reject any proposal or proposals where there shall appear to be collusion between the bidders to the disadvantage of the state, and to re-advertise for proposals for the same, until advantageous and satisfactory proposals shall be received and shall so re-advertise whenever any contract shall be annulled or abrogated as hereinafter provided. It shall be the duty of the secretary of state, attorney-general and comptroller to furnish all persons desiring to propose or bid for the public or legislative printing, blanks for proposals or bids for such printing in the form following:

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To the honorable secretary of state, attorney-general and comptroller: (Name of person or persons, or firm, as the case may be, and place of residence.) The undersigned propose to do public or legislative printing and work connected therewith, for the state of New York, at the prices and on the conditions herein named, and agree to comply fully with the requirements of law relative to the public or legislative printing; and in quantity, quality and manner set forth, described and provided in the advertisement or notice calling for proposals for said printing, namely: For each one thousand ems of composition for senate and assembly bills, \$, and for paper, press-work, pressing, folding, stitching and trimming of each four pages, for six hundred and forty copies, \$; and for each additional one hundred copies thereof, for paper, press-work, pressing, folding, stitching and trimming for each signature of four pages, when ordered by statute, \$. Journals, Legislative Record, messages from the governor, reports of standing or select committees, and the testimony taken before such committees when ordered to be printed, and reports and communications made in pursuance of law, or of a resolution of either house when ordered by the house to which such message, report or communication shall have been made, or by joint resolution, at the prices following:

For each one thousand ems of plain matter, \$; for each one thousand ems of rule, or rule and figure composition, \$; for the paper, press-work, pressing, folding, stitching and trimming of each signature of eight pages, for seven hundred and nineteen copies of the journals or documents of each house, \$; and for the paper, press-work, pressing, folding, stitching and trimming of each additional one hundred copies of journals or documents of either house, for each signature of eight pages, when ordered by statute, \$. When extra copies of messages from the governor, reports of standing or select committees and reports and communications made in pursuance of law, or of a resolution of either house, or of a concurrent resolution, are ordered by statute to be printed and bound, the price for binding to be as follows:

For binding in paper covers extra copies of reports ordered as above set forth, per copy, \$; for binding in cloth extra copies of reports ordered as above set forth, per copy, \$; for engraving on stone, steel or wood, and printing maps, plans and illustrations for the legislative documents, the price to be paid, including cutting, folding and pasting the same, shall in no case exceed the lowest rates current for work of the desired quality in Albany and New York city at the time said work may be done. It is understood that no extra pay will be claimed or allowed for any corrections or alterations in proof-sheets. And the right to abrogate or annul any contract made in pursuance hereof, for failure or non-performance on the part of said person or firm, is hereby expressly reserved to the secretary of state, attorney-general and comptroller: hereby guarantee that if the foregoing bid for the public or legislative printing is accepted, that will enter into a contract in compliance with said proposals, and give the necessary security, certify that the above guarantor resides in the of freeholder, and able to make good guaranty. [*Thus amended by L. 1887, ch. 181.*]

Guaranty to be annexed to each bid; guaranty, how certified; deposit of money or check. § 2. To every bid made under the provisions of section one of this act, there shall be annexed a guaranty subscribed by one or more guarantors of sufficient ability, that the person making such bid will, if the same be accepted, enter into a contract according to the terms thereof, and give the security required by law in such case, within the time specified for the purpose in such notice; and to every such guaranty a certificate shall be annexed of the county judge of the county where the guarantor resides, that the guarantor is a freeholder and able to make good his guaranty, together with a certified check on some state bank or national bank, or the money, to the amount of five per centum of said bid.

Number of legislative journals to be furnished; binding and distribution thereof. § 3. There shall be printed by the said contractor during each session of the legislature seven hundred and nineteen copies of the journals of each house, as the same shall be from time to time delivered to him by the clerks of the senate and assembly; and as they are printed, within the time specified in section ten of this act, he shall deliver to the superintendent of documents of the senate, in sheets folded, stitched and trimmed, eighty copies; to the superintendent of documents of the assembly, in sheets folded, stitched and trimmed, one hundred and ninety copies; to the state officers, in sheets folded, stitched and trimmed, thirty copies; and to the state library, in sheets folded, stitched and trimmed, one copy, and the remaining copies gathered and collected in the order of their numbers, and in volumes of not less than one thousand pages, and in every way ready for the binder, together with the indexes printed by such contractor; copy for which shall be furnished to him for that purpose by the clerks of the senate and assembly as soon as may be after the close of each session, shall be delivered by said contractor to the secretary of state; said copies after being bound, as provided by law, shall be distributed by the secretary of state as follows: For the senate, thirty-eight copies; for the assembly, one hundred and forty copies; for the senate library, three copies; for the assembly library, five copies; for counties, public officers and incorporated colleges in this state, one hundred and twenty-three copies; for literary and scientific exchanges, to be made by the regents of the

university, including one copy for each state and territory, one hundred and seven copies; and for the state library, two copies.

Number of messages, reports, etc., to be furnished; binding and distribution thereof.
 § 4. There shall be printed by the said contractor seven hundred and nineteen copies of the messages from the governor, reports of standing or select committees (which shall be construed not to include testimony that may be taken by such committee or committees when printed for the use of the committee by order of the senate or assembly,) and reports and communications made in pursuance of law, or of a resolution of either house, whenever ordered by the house to which such message, report or communication shall be made; eighty copies thereof shall be delivered by him, in sheets folded, stitched and trimmed, to the superintendent of documents of the senate; one hundred and ninety copies, in sheets folded, stitched and trimmed, to the superintendent of documents of the assembly; thirty copies, in sheets folded, stitched and trimmed, to the state officers; one copy, in sheets folded and stitched, to the state library, and the remaining copies gathered and collected in the order of their number and in volumes of not less than one thousand pages, and in every way ready for the binder, together with the indexes printed by such contractor, that shall be furnished to him for that purpose by the clerks of the senate and assembly as soon as may be after the close of each session, shall be delivered by said contractor to the secretary of state. Said copies after being bound, as provided for by law, shall be distributed by the secretary of state as follows: For the senate, thirty-eight copies; for the assembly, one hundred and forty copies; for the senate library, three copies; for the assembly library, five copies; for the counties, public officers and incorporated colleges in this state, one hundred and twenty-three copies; for literary and scientific exchanges, to be made by the regents of the university, including one copy for each state and territory, one hundred and seven copies, and the state library two copies.

Printing and distribution of bills, etc. § 5. There shall be printed by the said contractor, within twenty-four hours after receipt of the copy, six hundred and forty copies of each bill, the printing of which shall be ordered by either house; one hundred and fifty copies thereof shall be delivered by him to the superintendent of documents of the senate; four hundred and fifty copies to the superintendent of documents of the assembly; thirty copies to the state officers, and one copy to the state library, and the remaining copies shall be delivered by him to the secretary of state at the close of each session, gathered and collected in the order of their numbers (with indices to be furnished by the clerks of the senate and assembly), and in every way ready for the binder, and shall be distributed by the secretary of state as follows: To the state library, two copies; to the senate library, two copies; to the assembly library, three copies; to the executive chamber, one copy; and the secretary of state shall retain one copy for the use of his office. [*Thus amended by L. 1888, ch. 58, superseding L. 1887, ch. 710.*]

Contractor, to fix price for extra copies of journals, bills, etc.; how delivered; binding.
 § 6. Said contractors shall also print any extra number of copies of bills, journals, messages, reports and other documents named in this act, whenever ordered by statute, and for such extra work and printing for bills of the two houses, the price shall be named in the contract for each one hundred copies of a signature of four pages, including the paper, press-work, pressing, folding, collating, stitching and trimming, and for the journals and documents the price shall be named in the contract for each one hundred copies of a signature of eight pages, including the paper, press-work, pressing, folding, collating, stitching and trimming. The said contractors shall deliver one-third of such extra number to the senate, and two-thirds to the assembly, unless otherwise directed by law; any extra copies of messages, reports or documents named in section four of this act, ordered in pursuance of this section, shall be bound by the contractor in paper covers in the usual manner, unless otherwise ordered by law.

Legislative printing, what to include. § 7. The public or legislative printing provided for by this act is intended to cover, and shall be construed to include all the

bills, journals and documents of the senate and assembly; and also such extra copies thereof as may from time to time be ordered by statute for the use of the legislature, or for the use of any of the state officers, or state departments or state institutions and societies which are by law required to make reports to the legislature, including the edition of the annual report of the superintendent of the insurance department now authorized by law for the use of the insurance department; the annual report of the board of railroad commissioners, and also the annual report of the superintendent of the banking department.

Extra copies of legislative documents for state officers, boards, etc. § 8. In addition to the usual number of regular reports made by the state officers and institutions, there shall be printed as extra copies of legislative documents for the use of the respective departments, institutions and boards: Of the governor's message, six thousand copies, one thousand for the governor and five thousand for the legislature; of the comptroller's report of the finances of the state, one thousand copies; on the canals, two hundred and fifty copies; of the state treasurer's report, seven hundred copies; of the state engineer and surveyor's report on canals, two thousand five hundred copies, one thousand copies of the same to be bound in cloth; of the report of the superintendent of the insurance department, in addition to the fifteen hundred copies authorized by law, two thousand copies; of the report of the adjutant-general, one thousand copies, bound in cloth, and five hundred copies in paper; of the report of the superintendent of public works, two thousand five hundred copies; of the report on tolls, trade and tonnage, five hundred copies; of the report of the superintendent of state prisons one thousand copies bound in cloth and two thousand copies bound in paper; of the report of the state board of charities, fifteen hundred copies; of the report of the state board of health, three thousand copies; of the report of the state board of claims, five hundred copies; of the report of the bureau of labor statistics, five thousand copies, two thousand copies thereof for the use of the legislature; of the report of the civil service commission, one thousand copies; of the report of the agricultural experiment station, fifteen thousand copies, three thousand for the trustees and twelve thousand for the legislature; of the regent's report, one thousand copies; of the state library report, one thousand copies; of the state museum of natural history report, eighteen hundred copies, fifteen hundred for the regents and three hundred for the curator; of the annual report of the railroad commissioners, seven thousand copies, all bound in cloth, four thousand for the use of the legislature and three thousand for the railroad commissioners; "of the report of the superintendent of public instruction, fifteen thousand copies, all bound in cloth, to be distributed by that officer as follows: Eleven thousand three hundred copies for the school districts of the state, being one copy for each school district; nine hundred copies to school commissioners, and city superintendents of schools; two hundred copies to the state normal and training schools; three hundred copies to academies and high schools; one thousand copies to members and officers of the legislature and state officers; one thousand copies for the use of the state superintendent of public instruction; also three hundred copies printed on forty-four pound calendered paper and bound in leather, for exchange with the superintendents of public instruction of the states and territories, and for distribution among public libraries;" of the state geologist's report, fifteen hundred copies, one thousand for the legislature and five hundred for the state geologist; of the dairy commissioner's report, twenty-five hundred copies; of the factory inspector's report, eight thousand and five hundred copies, fifteen hundred thereof for the legislature, and seven thousand for the use of the inspectors; of the report of the board of mediation and arbitration, fifteen thousand copies, and of the report of the commissioner of fisheries, fifteen hundred copies for the use of the commissioners, and for all other institutions established by the state, when their printing is not done by the institution, seven hundred copies each, and for the hospitals and asylums for the insane, fifteen hundred copies each. All of the extra copies of the reports mentioned in this section shall be bound in paper covers, unless a report shall embrace more than three hundred pages, in which case one-half of the number of extra

copies shall be bound in cloth, and one-half in paper covers. [*Thus amended by L. 1888, ch. 247, superseding L. 1887, ch. 710.*]

Reports of insurance and bank departments and railroad commissioners, how paid for. § 9. The cost or expense of printing and binding the annual report of the superintendent of the insurance department shall be agreed upon and determined by the superintendent of said insurance department and comptroller, and the amount as agreed upon shall be paid or reimbursed to the state treasurer by the several insurance companies as now provided by law; and the expense or cost of printing and binding the annual report of the board of railroad commissioners shall be agreed upon and determined by the board of railroad commissioners and comptroller, and the amount as agreed upon shall be paid or reimbursed by the several railroad companies as now provided by law; and the expense or cost of printing and binding the annual reports of the superintendent of the banking department shall be agreed upon and determined by the superintendent of said banking department and comptroller, and the amount so agreed upon shall be paid or reimbursed by the several banking institutions as now provided by law.

Annual reports of state officers and boards, when to be delivered to contractor; printing and delivery thereof; journals and bills, when to be printed. § 10. All annual reports of state officers, and state boards, and of all state institutions, commissions, and of all societies and bodies which are now required by law to be made annually to the legislature in January, shall hereafter be made on or before the first day of February in each year and shall be placed in the hands of the printer by the fifteenth of December preceding shall be printed before transmission or presentation, and the usual number thereof shall be delivered as prescribed in section four of this act, on or before the first day of February in each year; and the bills and journals ordered printed for the use of each house of the legislature, for the state officers and for the state library, as provided by sections three and five of this act, shall be printed and distributed as provided by said sections, within forty-eight hours from the time said bills and journals shall have been placed in the hands of the person or firm with whom the contract for printing them shall have been made.

Annual reports to state boards, when to be forwarded. § 11. The managers and officers of the various corporations, societies and institutions required by law to report to any state board, department or bureau shall forward their annual reports to such board, department or bureau on or before the first day of November in each year.

Proviso as to existing contracts, etc. § 12. Nothing contained in this act shall be construed as in anywise modifying the terms of the existing contract, for the public or legislative printing; but reports to be presented to the legislature in eighteen hundred and eighty-eight shall not be regarded as included under such existing contract.

Repeal. § 13. All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed.

Legislative Record; printing and distribution thereof. § 14. There shall be a record kept and prepared for publication by the stenographers of the senate and assembly, of all the proceedings had therein, excluding debates, and in the committees of the whole thereof, excluding debates and votes taken therein, which shall be known as the Legislative Record of the state of New York, and there shall be printed by the said contractor during each session of the legislature one thousand copies thereof daily, as the same shall be delivered to him by the stenographers of the senate and assembly; the said Legislative Record shall be printed in the same typographical style, size of page, topical arrangement and size of type as the proceedings of the congress of the United States are now published in what is known as "the Congressional Record;" and the said contractor shall deliver the said Legislative Record, folded, stitched and trimmed (in such proportions and to like parties as are specified in section three of this act in the matter of the journals of each house), as follows: Two hundred copies to the clerk of the senate and eight hundred copies to the clerk of the assembly, at least one hour before the time for

the assembling of the senate and assembly on the day succeeding the day in which such proceedings were had, and copies thereof shall be placed on the files of the members of the senate and assembly before such assembling. [*Thus amended by L. 1888, ch. 58, superseding L. 1887, ch. 181.*]

L. 1854, Chap. 197 — An act to designate a state paper.

[Repealed by L. 1884, ch. 133, § 5, which follows next.]

L. 1884, Chap. 133 — An act in relation to the publication of legal and other notices and advertisements, and in relation to the state paper.

Advertisements in the state paper continued. SECTION 1. All legal and other notices and advertisements, hereinafter referred to, the publication whereof has been commenced in the state paper before this act, except section six, shall take effect, may be continued in the said state paper and shall be as valid as if this act had not been passed. But all such future legal and other notices and advertisements shall be published as herein provided.

Where advertisements to be published. § 2. Any and all notices and advertisements in any and all suits, actions, and special proceedings in any court, or before any judge of any court, of this state, now required or allowed to be published in the state paper, shall hereafter be published in such newspaper published in the county wherein the place of trial is designated, or wherein the papers in such special proceedings are required to be, or are, filed as shall be designated by such court or judge.

The same. § 3. All other notices or advertisements now required or allowed to be published in the state paper shall be published in a newspaper to be designated by the officer or officers, person or persons allowed or required to so publish, or a majority of them, in the county wherein such officers or persons, or any of them, shall have a principal place of business fixed by law; and if none such be so fixed, then in the county wherein they, or either of them, shall reside or have a place of business. If all be non-residents of the state, and have no place of business therein, then in any newspaper published in this state.

The same. § 4. If there be no newspaper published in the county wherein any such notice or advertisement is required or allowed to be published, or not a sufficient number for the requisite publications thereof, or the newspapers therein decline or refuse to publish the same at the rates allowed by law, the publication thereof may be made in such newspaper published elsewhere as may be designated by the court, judge, officer or person mentioned in sections two and three.

When act providing for state paper to be repealed. § 5. From and after the expiration of the contract with the publisher or publishers of the state paper, which was in force January first, eighteen hundred and eighty-four, the act entitled "An act to designate a state paper," passed April eleventh, eighteen hundred and fifty-four, and all other acts providing for the designation, appointment, creation or contracting with or for a state paper shall be and are repealed. Such repeal shall not revive any former act, or acts, law, or part thereof.

No new contract to be made. § 6. No contract with the publisher or publishers of any newspaper shall hereafter be made under the act entitled "An act to designate a state paper," passed April eleventh, eighteen hundred and fifty-four, or any other act or law now in existence, nor shall any state paper hereafter, or after January first, eighteen hundred and eighty-four, be appointed, designated, created or contracted for thereunder.

Proof of publication. § 7. Proof by affidavit of the publishers, printers, or foreman, or one of them, of the publication in the newspaper in which such notices and advertisements shall be published shall, within ten days after the last publication, be made and tendered to the attorney or attorneys, or other persons or person ordering, directing or interested in such publication; but delivery thereof shall not be compulsory in the case of private persons until payment of the charges for publication.

Inconsistent acts repealed. § 8. All acts and parts of acts inconsistent herewith are hereby repealed. Such repeal shall not revive any former act, or acts, law, or part thereof.

When this act takes effect. § 9. This act shall take effect at the expiration of the contract with and for the state paper in force January first, eighteen hundred and eighty-four, except section six, which shall take effect immediately.

L. 1885, Chap. 262 — An act to provide for the designation of a newspaper in the city of Albany for the publication of certain public notices.

Officers named to designate paper to publish terms of court, etc; rates. SECTION 1. The secretary of state, comptroller and treasurer shall, on or before the first day of January in each year, designate a daily newspaper, published in the city of Albany, in which shall hereafter be published during the year following such designation, all appointments of special terms, circuit courts, courts of oyer and terminer, general terms of the supreme court hereafter made, and the rules of practice hereafter adopted from time to time by the justices of the supreme court and the court of appeals; such publication to be made promptly after the announcement and adoption thereof; also promptly after their enactment the various laws of the state as filed in the office of the secretary of state; also all notices and advertisements required to be published in a newspaper by the attorney-general; also all notices and advertisements required to be published in a newspaper by the superintendent of the insurance department, and by the superintendent of the banking department; also all notices and advertisements required by law to be published in a newspaper in actions against foreign corporations. And the rates for such publications shall not exceed the legal rates now provided by law.

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Publication to be additional. § 2. Such notices and advertisements are not to be substituted for those now required to be published in other newspapers, but additional thereto.

CHAPTER VIII.

OF THE DUTIES OF THE EXECUTIVE OFFICERS OF
THE STATE, AND OF VARIOUS MATTERS CONNECTED
WITH THEIR RESPECTIVE DEPARTMENTS.

- TITLE I.—OF THE GOVERNOR, LIEUTENANT-GOVERNOR, OR OTHER PERSON ADMINISTERING THE GOVERNMENT OF THE STATE.
- TITLE II.—OF THE SECRETARY OF STATE.
- TITLE III.—OF THE COMPTROLLER.
- TITLE IV.—OF THE TREASURER. [163]
- TITLE V.—OF THE ATTORNEY-GENERAL.
- TITLE VI.—OF THE SURVEYOR-GENERAL.
[Of the state engineer and surveyor.]
- TITLE VII.—OF THE STATE PRINTER.
[Repealed.]
- TITLE VIII.—PROVISIONS RELATING TO TWO OR MORE OF THE EXECUTIVE OFFICERS.

[Supplementary Titles.

- TITLE 8^a.—Of the Superintendent of State Prisons; the Superintendent of Public Works; and the Inspector of Public Works; and their Powers and Duties.
- TITLE 8^b.—Of the Board of Claims; and its Powers and Duties.
- TITLE 8^c.—Of the Commissioner of Statistics of Labor; and his Powers and Duties.
- TITLE 8^d.—Of the Civil Service Commissioners; their Powers and Duties, and Regulations relating to the Civil Service.]

TITLE I.

Of the Governor, Lieutenant-Governor, or other person administering the Government of the State.

- Sec. 1. Military and naval command of governor.
2. His general duties.
3. His general powers.
4. To have custody of the great and privy seals.
5. In case of his impeachment, etc., lieutenant-governor to act.
6. Lieutenant-governor is president of senate.
7. If he be impeached, etc., while office of governor is vacant, president of senate to act as governor.
8. Governor may deliver over persons charged with having committed a crime out of the jurisdiction of the United States.
9. Upon whose requisition such delivery to be made.
10. What evidence governor to require of guilt of person charged.
11. Expense of such delivery to be paid by persons to whom it is made.
12. Governor to notify attorney-general, when suits are commenced against persons holding lands under warranty from state.

TITLE I.

13. He may employ counsel to assist attorney-general, in defending such suits.
14. Such counsel and the attorney-general to be paid out of treasury.
15. Governor may also employ counsel to assist attorney-general, in any suit prosecuted or defended for the state.
16. Governor to exchange copies of session laws with governors of other states.
17. Where laws received by him from other states, to be deposited.
18. Expenses of these duties paid out of treasury.
19. Constitutional and legal provisions in relation to governor, to apply to the person administering, for the time being, the government of the state.
- [20. Governor to keep register of applications.
21. And of pardons.
22. To preserve the reports of judges.
23. To keep an account of expenses.
24. Salary of private secretary and clerk hire.]

Governor's
command.

SECTION 1. The governor is general and commander-in-chief of all the militia, and admiral of the navy of the state, including the land and naval forces of the state, in time of war, or which this state may keep, with the consent of congress, in time of peace.

[Superseded by Const., art. IV, § 4.]

§ 2. It is the duty of the governor,

His duty.

1. To communicate by message to the legislature at every session, the condition of the state, and to recommend to them such measures as he judges expedient.

2. To transact all necessary business with the officers of government, civil and military.

3. To expedite all such measures as may be resolved upon by the legislature, and to take care that the laws be faithfully executed.

§ 3. He has power,

Powers.

1. To convene the legislature or the senate only, on extraordinary occasions.

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2. To grant reprieves and pardons after conviction, for all offences, except treason and cases of impeachment, and to suspend the execution of the sentence or conviction for treason, until the case shall be reported to the legislature, at its next session.

[See Const., art. IV, § 5.]

Custody of
privy seal.

§ 4. The governor shall have the custody of the privy seal, of which description in writing has been deposited and recorded in the secretary's office, and which shall be and continue the privy seal of this state. [*Thus amended by L. 1880, ch. 86.*]

[1 R. L., 459, § 6.]

Lieuten-
ant-governor.

§ 5. In case of the impeachment of the governor, or his removal from office, death, resignation or absence from the state, the powers and duties of the office devolve upon the lieutenant-governor, for the residue of the term, or until the governor, absent or impeached, shall return or be acquitted. But when the governor shall, with the consent of the legislature, be out of the state in time of war, at the head of a military force thereof, he still continues commander in chief of all the military force of the state.

[See Const., art. IV, § 6.]

Ib.

§ 6. The lieutenant-governor is president of the senate, but has only a casting vote therein.

[See Const., art. IV, § 7.]

§ 7. If, during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, or die, or be absent from the state, the president of the senate must act as governor until the vacancy shall be filled, or the disability shall cease.

TITLE I.

Ib.

[See Const., art. IV, § 6.]

§ 8. The governor may, in his discretion, deliver over to justice, any person found within the state, who shall be charged with having committed without the jurisdiction of the United States, any crime, except treason, which, by the laws of this state, if committed therein, is punishable by death or by imprisonment in the state prison.¹

Foreign
criminals

[See Code Crim. Proc., §§ 827-835.]

§ 9. Such delivery can only be made, on the requisition of the duly authorised ministers or officers of the government, within the jurisdiction of which, the crime shall be charged to have been committed.¹

§ 10. It shall be the duty of the governor to require such evidence of the guilt of the person so charged, as would be necessary to justify his apprehension and commitment for trial, had the crime charged been committed within this state.¹

§ 11. The expense of apprehending and delivering such person, shall be defrayed by those to whom he shall be delivered.¹

§ 12. Whenever the governor shall receive notice of any suit or proceeding having been commenced, for the recovery of any lands held under a warranty from the people of this state, it shall be his duty to inform the attorney-general, and require him to make every legal or equitable defence, against such suit or proceedings.

Suits.

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§ 13. The governor may employ such able counsel and other persons, as he may judge proper, to assist the attorney-general in making such defence.

§ 14. Such sums of money, as the governor shall certify to be reasonable and just, for the payment of counsel fees, and other expenses incurred in every such defence, or as an allowance to the attorney-general for his services and expenses therein, shall be paid out of the treasury.

§ 15. The governor may also employ such counsel as he may deem proper, to assist the attorney-general, in any suit prosecuted or defended by him, in behalf of this state; and the reasonable compensation of such counsel, to be certified by the governor, shall be paid out of the treasury.

Ib.
89 N. Y.
571; 11 Abb.
N. C., 804.

[1. R. L., 156, § 3; Ib., 348, § 24.]

§ 16. It shall be the duty of the governor to transmit, free of expense, to the executive of each state in the union, three copies of the acts of each future session of the legislature of this state, as soon as the acts shall be printed, and to request a similar communication to be made to him, of the laws of the several states.

Session
laws.

[L. 1825, p. 7.]

¹ In *People ex rel. Barlow v. Curtis*, 50 N. Y., 321, the court of appeals determined that sections 8, 9, 10 and 11 were unconstitutional, on the ground that the whole subject appertained to the U. S. Constitution and laws.

TITLE 1.

Laws of
other
states.
3 Abb. Ct.
App. Dec.,
334.

§ 17. Whenever, in pursuance of such request, the statutes of any other state shall be received by the governor, he shall deposit one copy thereof in the state library, one in the senate chamber, and one in the assembly chamber; if but one copy be received, it shall be deposited in the state library.

[L. 1825, p. 7.]

Expenses.

§ 18. All expenses incurred in the execution of the duties prescribed by the two last preceding sections, shall be paid out of the treasury.

[L. 1825, p. 7.]

General
provision.

§ 19. Every provision in the Constitution and laws of this state, in relation to the powers and duties of the governor, and in relation to acts and duties to be performed, by other officers or persons, towards him, shall be construed to extend to the person administering, for the time being, the government of the state.

Governor
to keep
register of
applica-
tions.

§ 20. The governor shall cause to be kept in proper books to be provided for that purpose, a full and complete register of all applications or petitions made to him for the discharge of any duty imposed on him by the Constitution or laws of this state, or for the exercise of any power in him vested, which register so made shall be and remain in the executive chamber, and the original papers on which each application or petition is founded shall remain on file in the executive chamber, and, with the register so made, shall be delivered to his successor when he shall have been duly qualified. But whenever an application for appointment to office in his gift or nomination, shall be refused by the governor, he may in his discretion deliver to the unsuccessful applicant, his letters, recommendations and petitions in relation thereto.

[Sections 20-24 were added to this title by L. 1858, ch. 64.]

And of
pardons.

§ 21. The governor shall cause to be provided in his office, proper books, in which shall be entered all applications made to him for the pardon of any prisoner, or the commutation of any sentence, with a record of the same and a list of the official signatures and recommendations in favor of such application, and all the original papers on which such application is founded shall remain on file in the executive chamber.

[See note to § 20.]

To pre-
serve the
reports of
judges.

§ 22. The governor shall cause to be preserved and filed in his office the judges' reports made to him pursuant to the provisions of the statute, of the testimony on which capital convictions had taken place. He shall also keep a register of the same, in which shall be recorded any action which he may have taken in relation to such convictions, and the same shall remain in the executive chamber.

[See note to § 20.]

To keep an
account of
expenses.

§ 23. The governor shall also cause to be kept a book containing a statement of his disbursements for the incidental expenses of his department; of rewards offered by him for the apprehension of

criminals and expenses incurred in sending the reports of courts and copies of the laws of this state to other states, and of all other official expenses and disbursements. TITLE 1.

[See note to § 20.]

§ 24. The salary of the private secretary is hereby fixed at two thousand dollars per annum, and the further sum of twenty-six hundred dollars per annum, or so much thereof as may be required, shall be allowed to the governor for the payment of clerks and messengers for the executive department, to be paid by the treasurer to the governor, on the warrant of the comptroller. Salary of private secretary and clerk hire.

[See note to § 20. This section is superseded by subsequent legislation. See ch. 9, *post.*]

L. 1887, Chap. 213—An Act to provide for the subpoenaing of witnesses and the production of books and papers in any matter arising before the governor upon an application for executive clemency.

On application for pardon, governor may issue subpoena. SECTION 1. The governor shall have the power in any matter pertaining to an application for clemency, to issue a subpoena to compel the attendance of a person before him at a time and place designated in said subpoena; and he shall also have the power to compel the production of any book, paper or writing by a subpoena duces tecum, directed to a person in whose custody either may be, at a time and place designated in said subpoena. But the provisions of this act shall not apply to any book, paper or writing filed in any office of record in any civil division of this state.

May appoint a person to conduct hearing, etc. § 2. The governor may appoint a person to conduct a hearing in a matter pertaining to an application for clemency, and his compensation shall not exceed ten dollars for each day's actual service. Such person, upon the conclusion of such hearing, shall forward to the governor without delay, the testimony taken before him. The governor may direct that a person subpoenaed by him, in conformity to the provisions of section one of this act, appear before a person designated by him to conduct a hearing as provided by this section; and a person so subpoenaed shall produce any book, paper or writing before said person so designated by the governor, in conformity to the provisions of section one of this act.

Oaths to witnesses, false swearing, perjury. § 3. The governor, or a person designated by him to conduct a hearing in a matter pertaining to an application for clemency, shall have power to administer an oath to a person brought before him, and wilful and deliberate false swearing upon a hearing had in conformity with the provisions of this act, shall be perjury.

Form and service of subpoena; witness' fees. § 4. A subpoena, or subpoena duces tecum, issued in conformity to the provisions of this act, shall be signed by the governor's private secretary, and be attested by the privy seal of the state, and may be served by any person authorized by law to serve subpoenas in civil or criminal actions at law. No person shall be compelled to appear as provided by this act, unless he is paid at the time of the service of the subpoena upon him, the fees and mileage prescribed by law for the attendance of witnesses in civil actions at law in the supreme court.

Penalty for failure to appear, etc. § 5. A person subpoenaed who fails to appear, refuses to answer, or produce a book, paper or writing as provided in this act, shall, upon conviction be adjudged guilty of a criminal contempt. And in addition thereto, a person so subpoenaed shall be subject to all the provisions of law which now or may hereafter exist, relating to witnesses in civil or criminal actions at law; and the governor shall possess all the powers in relation to said provisions which are possessed by any court or judge, but he shall be limited to the matters arising under the provisions of this act.

Disbursements. § 6. Any disbursements necessary to be made for any of the purposes mentioned in this act shall be paid upon the approval of the governor's private secretary, by the comptroller out of any moneys in the treasury not otherwise appropriated.

L. 1836, Chap. 536—An act for the payment of certain officers of the government, and for other purposes.

[Sections 1-7 and 9-12 are omitted as temporary or superseded by subsequent statutes.]

Allowance for purchase of reports of supreme court. § 8. The treasurer shall pay to the governor, on the warrant of the comptroller, such sum, not exceeding one hundred dollars in any one year, as may be necessary to furnish a copy of the current reports of the supreme court of this state for each of the states that has transmitted, or shall transmit to him, reports of its supreme or superior courts, for the use of this state.

TITLE 2.

TITLE II.

Of the Secretary of State.

- (166) **Sec. 1.** Secretary of state to have care of all books and papers deposited in his office.
2. All deeds to state, to be deposited there.
 3. To provide books for recording depositions of resident aliens.
 4. Copies of papers in his office certified by him, etc., evidence.
 5. Secretary of state to attend legislature, to receive bills that become laws.
 6. To cause original laws passed at each session to be bound.
 7. One copy of the laws printed by state printer, to be deposited in his office, after being compared with original laws on file.
 8. To distribute the printed laws and journals of each session.
 9. To send for copies to secretary of state of the United States.
 10. To deliver one copy to Atheneum in Philadelphia, Boston, New-York and Albany, and one to historical society of New-York.
 11. To distribute laws of congress in same manner as laws of this state.
 12. When new town or county erected, such town or county to be furnished with a complete set of laws, commencing with the revised laws of this session.
 13. Secretary of state to purchase necessary sets of laws for distribution.
 14. To transmit to county clerks such number of laws and journals as are to be distributed in their counties.
 15. Also to send the laws to different states.
 16. To deliver to county clerks entitled thereto the volumes of reports deposited in his office for them by state reporter.
 17. To procure for and deliver to clerks of new counties, a set of reports of supreme court.
 18. To send to county clerks a copy of state prison reports.
 19. Also to send lists of licensed hawkers, etc.
 20. Description in writing of arms of state, and of great and privy seals, and of seal of secretary of state, to remain public records.
 21. What papers to be sealed with privy seal.
 22. Deputy secretary, his powers and duties.

SECTION 1. The secretary of state shall have the custody of all the books, records, deeds, parchments, maps and papers now deposited, or that may hereafter be deposited or kept in his office, and shall, from time to time, make such provision for the arrangement and preservation thereof as he may deem necessary, and shall also have the custody of the great seal, of which description in writing has been deposited and recorded in the secretary's office, and which shall be and continue the great seal of this state. [*Thus amended by L. 1880, ch. 86.*]

TITLE 2.
General
duties.
61 Barb.,
265.

§ 2. All deeds and conveyances, other than mortgages, belonging to the people of this state, shall be deposited in the office of the secretary of state.

State
deeds.

[1 R. L., 477, § 10.]

§ 3. The secretary of state shall provide proper books, for the recording of the depositions or affirmations required by law, to be made by resident aliens, desirous to take and hold real estate; and shall record the same in such books.

Books for
recording.

[L. 1825, 427, § 2.]

§ 4. All copies of records and papers in the office of the secretary of state, certified by him, and authenticated by the seal of his office, shall, in all cases, be evidence, equally and in like manner, as the original.

Copies.
61 Barb.,
265; 6
Barb., 220.

[L. 1825, 427, § 2; 1 R. L., 527, § 35.]

§ 5. The secretary of state shall attend at every session of the legislature, for the purpose of receiving bills which shall have become laws.

Laws.

[1 R. L., 458, § 1.]

§ 6. Immediately after each session of the legislature, the secretary of state shall cause the original laws passed at such session, together with such certified copies of concurrent resolutions as shall have been delivered to him, to be bound together in a volume, of such size as he shall think proper; and he shall also cause the title thereof, with the session at which the same shall have been passed, to be written or printed on the back of such volume.

Laws.

[1 R. L., 458, § 2.]

§ 7. He shall deposit in his office, one copy of the laws printed by the state printer, having first examined and compared the same with the original laws on file, and noted at the end of each act any error or omission that may be found in the printed copy; and shall cause the title thereof, with the session at which the same shall have passed, to be written or printed on the back of such volume.

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Ib.

[1 R. L., 458, § 2.]

§ 8. The secretary of state shall distribute the printed laws and journals of each session, immediately after their publication, as follows:

Laws and
journals.

1. To the clerk of the senate, for the use of the senate, eight copies.
2. To the clerk of the assembly, for the use of the assembly, twenty copies.
3. To each of the following officers and persons, namely: the

TITLE 2. governor, the lieutenant-governor, the members of the senate and assembly, the chancellor, the justices of the supreme court, the circuit judges, the comptroller, the treasurer, the surveyor-general, the attorney-general, the librarian of the state library, for the use of the library, the commissary-general, the adjutant-general, and the several county clerks, one copy.

4. To each of the following officers, namely: town clerks, district-attornies, and supervisors' clerks, one copy of the laws, without the journals.

[This section is modified by L. 1847, ch. 254, in chapter 7, *ante*.]

Laws. § 9. The secretary of state shall transmit four copies of the printed laws of each session, immediately after their publication, to the secretary of state of the United States.

[L. 1820, 18.]

Id. § 10. He shall also deliver to the atheneum of the city of Philadelphia, and to the atheneum of the city of Boston, or to such person as they shall respectively direct, a copy of the printed laws passed at each future session of the legislature; and in like manner to the atheneums of the cities of New York and Albany, and the historical society of the city of New York, one copy both of the laws and journals.

[L. 1820, 7.]

Acts of congress. § 11. He shall also cause the acts of the congress of the United States, which may be received at his office, to be distributed in the same manner as the laws of this state are directed to be distributed.

[1 R. L., 484, § 13.]

New county, &c. § 12. Whenever a new county or town shall be erected, the secretary of state, shall transmit to the clerk of such county or town, a complete set of the laws of this state, commencing with the revised laws passed at this session of the legislature, and including the laws subsequently passed.

Id. § 13. The secretary of state shall be authorised under the direction of the governor, to purchase, from time to time, as many sets of the laws of this state, as may be necessary for the supply of new counties and towns, and for other objects required by law.

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[L. 1818, 234.]

Laws and Journals. § 14. The secretary of state, as soon as may be, after the laws and journals of each session have been deposited in his office, shall transmit, in boxes, at the expense of the state, to each county clerk, the requisite number of laws and journals intended for the use of such county, and required to be distributed to the members of the legislature residing therein, and to the other officers in such county entitled thereto.

[L. 1815, 280, § 5.]

Laws for other states. § 15. He shall also put up in boxes, the laws directed to be sent by the governor to the several states in the union, and shall transmit the same, at the exoense of the state, in such manner as the governor shall direct.

[L. 1815, 280, § 5.]

§ 16. He shall, from time to time, deliver to such of the county clerks as shall be entitled thereto, such copies of the reports published by the state reporter, as shall have been deposited in his office for that purpose by the reporter. TITLE 2.
Reports.

[1 R. L., 320, § 10.]

§ 17. He shall also procure, at the expense of this state, and deliver to the clerk of each county hereafter erected, a complete set of the reports of the supreme court of this state, for the use of the county courts of such county. Ib.

[L. 1824, 74.]

§ 18. The secretary of state shall, annually, on or before the first Tuesday of May, transmit to each of the county clerks in this state, a copy of the reports received by him, for the preceding year, from the agents of the several state prisons in this state. State
prison re-
ports.

[L. 1819, 90, § 15; 2 R. L., 229, § 3.]

§ 19. He shall, on or before the tenth day of May, in each year, transmit to each county clerk in this state, a certified list of the names of the several persons licensed as hawkers, pedlers, or petty chapmen. Pedlers,
&c.

[L. 1819, p. 90, § 15; 2 R. L., 229, § 3.]

§ 20. The description, in writing, of the arms of the state, and of the great and privy seals, and of the seal of office of the secretary of state, deposited and recorded in the secretary's office, shall remain as public records; and the said arms shall continue to be the arms of the state, and the said seal of office, to be the seal of office of the secretary of state. Arms and
seals.

[1 R. L., 459, § 6.]

[See L. 1882, ch. 190, *ante*, p. 149.]

§ 21. The privy seal, shall be the seal for military commissions; and all such matters as have issued under the great seal since the sixteenth day of March, one thousand seven hundred and seventy-eight, except copies of papers and records, certified by the secretary of state, or his deputy, and authenticated under his seal of office, shall continue to be issued under the great seal, and shall be made out and recorded in the secretary's office. Ib.

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[1 R. L., 459, § 6.]

§ 22. There shall be a deputy-secretary of state, who may perform all the duties belonging to the office of secretary of state; except as commissioner of the land-office, commissioner of the canal fund, state canvasser, state sealer of weights and measures, and superintendent of common schools. Deputy-
secretary.

¹ The following concurrent resolutions impose duties on the secretary of state :

STATE OF NEW YORK :

IN ASSEMBLY, *January 7, 1840.*

Resolved (if the senate concur), That the secretary of state cause to be prepared and printed, by the printer to this state, for the present year, and annually hereafter, for the use of the senate and assembly, a book, to be denominated a Manual, which shall contain the Constitutions of this state and of the United States, diagrams of the senate and assembly chambers, extracts from statutes, and statistical and other information of the same description with that contained in the books heretofore procured by the clerks of the two houses respectively, with such other matter as may be deemed useful; and that he have the same bound in a pocket volume, and a copy thereof delivered within two weeks after the commencement of each session of the legislature, and as much earlier as may be practicable, to each of the members and officers of the two houses, and to each of the state officers who are entitled to copies of the Session Laws, with the name of such member or officer lettered on the cover; and also a map of the state, exhibiting

TITLE 3.

TITLE III.

Of the Comptroller.

ART. 1.—Of the general duties and powers of the comptroller.

ART. 2.—Of proceedings against persons accountable for public monies.

ART. 3.—Of the settlement of accounts for lands purchased from, or mortgaged to the people of this state.

ARTICLE FIRST.

OF THE GENERAL DUTIES AND POWERS OF THE COMPTROLLER.

SEC. 1. His general duties.

2. To require persons receiving public monies to account to him.
3. May require persons presenting accounts, to make oath.
4. He shall countersign and enter all treasury checks and receipts.
5. He is to draw in favor of treasurer, for dividends on all stock owned by state.
6. To procure monthly statements from the banks in which the treasurer keeps an account.

the route of all canals and railroads that are finished or in course of construction; the necessary expense whereof shall be paid by the treasurer, on the warrant of the comptroller.

By order,

P. B. PRINDLE, *Clerk.*

IN SENATE, *January 15, 1840.*

Resolved, That the senate concur with the assembly in the foregoing resolutions.

By order,

JOHN F. BACON, *Clerk.*

STATE OF NEW YORK:

IN SENATE, *March 21, 1844.*

Resolved (if the assembly concur), That the secretary of state be authorized, at the time of transmitting the annual Session Laws, to transmit the document of annual reports of the state and county superintendents of common schools, to the county and town superintendents of common schools by such conveyance as shall by him be deemed the most proper and economical, at the expense of the state.

Resolved (if the assembly concur), That the superintendent of common schools be requested to prefix to the said document his order, directing the said county and town superintendents severally to deliver over the said document to their successors, at the expiration of their respective offices.

By order of the senate,

ISAAC R. ELWOOD, *Clerk.*

IN ASSEMBLY, *March 26, 1842.*

Resolved, That the assembly do concur with the senate in the above resolutions.

By order of the assembly,

JAS. R. ROSE, *Clerk.*

STATE OF NEW YORK:

IN ASSEMBLY, *May 6, 1846.*

Resolved (if the senate concur), That the secretary of state and comptroller be directed to procure the senate and assembly documents and journals, with the indexes thereto, to be bound in boards, with leather backs and corners, and lettered for the members, officers, deputy clerks and reporters of the senate and assembly, and also the documents and journals to be full bound for the senate and assembly libraries, for which purpose the said secretary of state and comptroller shall advertise in three newspapers published in the city of Albany, for at least two successive weeks, for sealed proposals, and shall accept of and contract with the person or persons making the most favorable proposals for the state. And the said secretary of state and comptroller shall, with all convenient despatch, cause the said documents, with the journals of the senate and assembly, to be forwarded to the several county clerks for the use of the members and other persons entitled thereto. The expense of carrying out this resolution shall be paid from the contingent expenses of the senate and assembly.

By order of the assembly,

WILLIAM C. CRAIN, *Speaker.*

WILLIAM W. DEAN, *Clerk.*

IN SENATE, *May 9, 1846.*

Resolved, That the senate do concur with the assembly in the foregoing resolution.

A. GARDINER, *President.*

ISAAC R. ELWOOD, *Clerk.*

STATE OF NEW YORK:

IN ASSEMBLY, *March 30, 1849.*

Resolved (if the senate concur), That fifteen copies of the laws, journals, and documents of the state of New York be placed at the disposal of the regents of the university for international exchanges, out of the twenty-five copies which are directed to be offered for sale by the secretary of state, according to the provisions of an act entitled "An act concerning the laws, journals, and documents of the legislature," passed May 12, 1847.

By order of the assembly,

PHILANDER B. PRINDLE,
Clerk of Assembly.

IN SENATE, *April 2, 1849.*

Resolved, That the senate do concur in said resolution.

By order of the senate,

A. H. CALHOUN, *Clerk.*

See, also, L. 1865, ch. 539, devolving duties upon the secretary of state, which are in some respects permanent, although the act is of a temporary character. See, also, the statutes relating to distribution of the Session Laws, in chapter 7, title 4, *ante.*]

- SEC. 7. To keep an account between the state and the treasurer.
 8. To examine monthly the bank books kept by the treasurer.
 9. To examine bonds, etc., on which money may be due to the state.
 10. To send annually to auctioneers all new auction laws, and to report to the legislature the returns made by them.
 11. To make temporary loans, when necessary, at an interest not exceeding six per cent.
 12. Such loans to be paid as soon as sufficient money in treasury.
 13. Comptroller to vote on stocks owned by state.
 14. May publish, from time to time, laws relating to payment of money due the state, or relating to duties to be performed by public officers.
 15. When monies paid at treasury through mistake, in certain cases, comptroller to draw his warrant on the treasurer in favor of the person who paid it.
 16. All mortgages, etc., given to secure money to the state, to be deposited in comptroller's office.
 17. Comptroller to direct in what banks certificates of stock owned by state shall be deposited.
 18. Deputy comptroller, his powers.

ART. 1.

SECTION 1. It shall be the duty of the comptroller,

General duties.

1. To superintend the fiscal concerns of the state, and to manage the same in the manner required by law.

2. To exhibit to the legislature, at its annual meeting, a complete statement of the funds of the state, of its revenues, and of the public expenditures during the preceding year, with a detailed estimate of the expenditures, to be defrayed from the treasury for the ensuing year, specifying therein each object of expenditure, and distinguishing between such, as are provided for by permanent or temporary appropriations, and such as require to be provided for by law: and shewing the means, from which such expenditures are to be defrayed.

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3. To suggest plans for the improvement and management of the public revenues.

4. To keep and state all accounts between this state and the United States, and all other accounts in which the state is interested.

5. To examine and settle the accounts of all persons indebted to the state, and to certify the amount, or balance, to the treasurer.

6. To direct and superintend the collection of all monies due to the state.

7. To examine and liquidate the claims of all persons against the state, in cases where provision for the payment thereof shall have been made by law; and where no such provision, or an insufficient provision shall have been made, to examine the claim and report the facts, with his opinion thereon, to the legislature.

8. To require all persons who shall have received any monies belonging to the state, and shall not have accounted therefor, to settle their accounts.

9. To draw warrants on the treasurer for the payment of all monies directed by law to be paid out of the treasury; but no warrant shall be drawn, unless authorised by law, and every warrant shall refer to the law under which it is drawn.

[1 R. L., 474, § 1; Ib., 478, § 15.]

§ 2. The comptroller shall, from time to time, require all persons receiving monies, or securities, or having the disposition or management of any property of the state, of which an account is kept in his office, to render statements thereof to him; and all such persons

May require accounts.

TITLE 3. shall render such statements, at such time, and in such form as he shall require.

May
require
oath.

§ 3. The comptroller may require any person presenting to him an account for settlement, to be sworn before him, touching the said account; and when so sworn, to answer orally, as to any facts relating to the justness of the said account.

Checks
and
receipts.

§ 4. He shall countersign and enter all checks drawn by the treasurer, and all receipts for money paid to the treasurer; and no such receipts shall be evidence of payment, unless so countersigned.

[1 R. L., 477, § 9.]

Dividends.

§ 5. He shall draw, in favor of the treasurer, on the presidents and directors of all banks, and other corporations, and joint stock companies, in which the state may own stock, for the dividends on such stock, as the same may become due.

[1 R. L., 477, § 8.]

Treasurer's
accounts.

§ 6. He shall procure, from the books of the banks in which the treasurer shall make his deposits, monthly statements of the monies which shall be received and paid out of the same, on account of the treasurer.

[1 R. L., 473, § 3.]

[1711]
Ib.

§ 7. He shall keep an account between the state and the treasurer, and therein charge the treasurer with the balance in the treasury when he came into office, and with all monies received by him, and credit him with all warrants drawn on and paid by him.

[1 R. L., 474, § 1; 1 R. L., 473, § 3.]

§ 8. On the first Tuesday of every month, or oftener, if he deems it necessary, he shall carefully examine the accounts of the debts and credits in the bank books kept by the treasurer, and if he discovers any irregularity or deficiency therein, he shall, unless the same be rectified or explained to his satisfaction, forthwith report the same, in writing to the governor.

[1 R. L., 474, § 1; 1 R. L., 473, § 3.]

State secu-
rities.

§ 9. He shall, from time to time, examine the bonds, mortgages, and other securities on which money may be due, to the people of this state, and shall make enquiries relative to the sufficiency of the security for the payment of such monies; and in addition to the payment of interest, he shall require the payment of such part of the principal, as he may deem necessary for the security and interest of the state.

[L. 1826, 354, § 6.]

Auction-
eers.

§ 10. He shall transmit, annually, by mail, or otherwise to each auctioneer, in this state, who shall have notified him of his acceptance of the said office, a copy of such laws as may, from time to time, be passed relative to sales by auction; and he shall also make an annual report to the legislature, of the returns made by auctioneers.

[L. 1817, 332, § 15.]

Tempo-
rary loans.

§ 11. It shall be lawful for the comptroller, in the name and in behalf of the people of this state, from time to time, as the legal demands on the treasury may render it necessary, to make such

temporary loans, at a rate of interest not exceeding six per cent. per annum, from corporations or individuals within this state, as may be necessary to discharge such demands; and he shall draw his warrant for the monies so borrowed, in favor of the treasurer, and charge him with the amount thereof.

ART. 1.

[1 R. L., 482, § 21; ib., 481, § 27; L. 1815, 33, § 8; L. 1816, 292, § 35.]

(L. 1835, Chap. 52. SECTION 1. Whenever the condition of the treasury shall render it necessary for the comptroller to borrow money under the authority vested in him by section eleven, title three, chapter eight, of the first part of the Revised Statutes, it shall be lawful for him to issue transferable certificates of stock for the amount borrowed, at an interest not exceeding five per cent. per annum, payable quarterly, and the principal reimbursable at such time or times, not exceeding seven years, as in the opinion of the comptroller the treasury will be in a condition to pay the amount borrowed, from the receipts of auction and salt duties, canal tolls, direct tax, or other revenues of the state, which may hereafter belong to the general fund: and so much of the said revenues as will be sufficient to reimburse the amount to be borrowed for the support of the government, are hereby pledged to that object.)

§ 12. Such temporary loans shall be paid, as soon as there shall be sufficient money for that purpose in the treasury; and the comptroller shall report to the legislature, his proceedings in relation to every such loan made by him.

Tempo-
rary loans.

[1 R. L., 480, § 21; Ib., 481, § 27; L. 1815, 33, § 8; L. 1816, 292, § 35.]

§ 13. The comptroller shall have power to vote, either in person, or by proxy, in behalf of the state, at all elections of directors of banks, or other corporations, or joint stock companies, at which this state is entitled to vote.

To vote for
state.

[1 R. L., 476, § 7.]

§ 14. He may, from time to time, cause to be published at the expense of this state, in one or more of the newspapers printed therein, such laws of this state, or extracts therefrom, relating to the payment of monies due to this state, or the duties to be performed by the public officers thereof, as he may deem necessary.

May pub-
lish laws.

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[L. of 1817, 300, § 12.]

§ 15. Whenever the comptroller shall be satisfied that monies have been paid into the treasury through mistake, he may draw his warrant therefor on the treasurer, in favor of the person who may have made such payment; but this provision shall not extend to payments on account of taxes, nor to payments on bonds and mortgages.

Payments
through
mistake.

[1 R. L., 477, § 13.]

§ 16. All leases, mortgages, bonds, and other securities for money given to the people of this state, unless otherwise specially directed, shall be deposited and kept in the office of the comptroller.

State secu-
rities.

[1 R. L., 477, § 10.]

§ 17. The certificates for stock of any kind, owned by the people of this state, shall be deposited, for safe keeping, in such banks as the comptroller may select.

[1 R. L., 477, § 11.]

§ 18. There shall be a deputy-comptroller, who may perform any of the duties of the comptroller, except the drawing of warrants on the treasury, the auditing of public accounts, and the duties of the comptroller as commissioner of the land-office, commissioner of the canal fund, and state canvasser.

Deputy
comptrol-
ler.

[1 R. L., 480, § 23.]

L. 1833, Chap. 56 — An act relative to the comptroller's office.

[Sections 1, 2, 3, 6 and 7 create and define the duties, etc., of the office of second deputy comptroller, which was abolished by L. 1877, ch. 27.]

Papers. § 4. All papers relating to the canals, whether pertaining exclusively to the duty of the comptroller, or to the duties of the commissioners of the canal fund, or of the canal board, shall be deposited in the comptroller's office.

Copies. § 5. Copies of all such papers as are mentioned in the preceding section, and extracts from the minutes of the orders and proceedings of the commissioners of the canal fund, and of the canal board, certified by the comptroller, shall, in all cases, be evidence equally, and in the like manner as the originals.

L. 1841, Chap. 274 — An act to provide for the payment of certain expenses of government.

[Sections 1 to 5 are omitted as temporary or superseded by subsequent acts.]

Comptroller allowed certain expenses. § 6. The reasonable expenses of the comptroller, when necessarily absent on public business appertaining to the duties of his office, shall be paid out of the treasury.

[Remainder of the act is omitted as temporary, except § 23, which relates to the expense of transporting convicts, and has been superseded by subsequent legislation.]

L. 1843, Chap. 44 — An act relating to the transmission of public moneys to the treasury.

Duty of comptroller. SECTION 1. The comptroller is hereby authorized to make such regulations, and give such directions, from time to time, respecting the transmission to the treasury of moneys belonging to the state, from the several county treasurers, and the commissioners for loaning certain moneys of the United States, as he, in his judgment, shall deem most conducive to the interest of the state.

Expenses to be paid. § 2. The comptroller may, in his discretion, audit, allow and cause to be paid, such or so much of the expenses necessarily incurred under and in consequence of the aforesaid regulations and directions, as he shall deem equitable and just.

L. 1843, Chap. 179 — An act to refund moneys paid in certain cases for taxes.

Duty of comptroller. SECTION 1. Whenever it shall appear satisfactorily to the comptroller that the amount of any tax has been paid, and afterwards other money has been paid into the treasury on account of such tax; and in cases where it shall appear that the amount due for any tax has been overpaid, he may draw

his warrant on the treasurer for the amount so overpaid, in favor of the person who may have made such payments.

L. 1873, Chap. 120—An act conferring certain additional powers upon the comptroller.

Comptroller may set aside cancellation of sale. SECTION 1. The comptroller of the state of New York shall have the power to set aside any cancellation of sale made by him under the provisions of chapter four hundred and twenty-seven of the laws of eighteen hundred and fifty-five, entitled "An act in relation to the collection of taxes on lands of non-residents, and to provide for the sale of such lands for unpaid taxes," in either of the following cases: First. Whenever such cancellation was procured by fraud or misrepresentation. Second. Whenever such cancellation was procured by the suppression of any material fact bearing upon the case. Third. Whenever the cancellation was made under a mistake of fact. But the comptroller shall in all cases specify the particular grounds upon which said cancellation is set aside.

104 N. Y., 369.

L. 1878, Chap. 291 — An act to authorize the comptroller to compromise and settle old judgments and contract debts.

Comptroller may compromise old judgments. SECTION 1. The comptroller of this state is hereby authorized and empowered, with the approval of the attorney-general, to compromise, compound, settle, discharge and release any judgment or contract debt not in judgment against an individual or corporation, in favor of the state, in cases where more than ten years have now elapsed since the recovery of such judgment or the contraction of such debt, upon such terms as the comptroller and attorney-general may deem best for the interests of the state.

L. 1880, Chap. 100—An act to authorize the state comptroller to issue revenue bonds in anticipation of the state tax, for expenses of government.

Comptroller empowered to issue bonds in anticipation of state tax. SECTION 1. The state comptroller is hereby empowered, from time to time, as may be required, to issue bonds in anticipation of the state tax, authorized to be levied for the current expenses of the government, which bonds shall be made payable on or before the fifteenth day of May next, following date of issue, and draw interest at the lowest rate obtainable by the comptroller.

Proceeds of bonds to be applied to the current expenses of the government. § 2. The proceeds of the bonds issued in pursuance of section one of this act shall be

applied in payment of the current expenses of the government, and to no other object, and so much as is necessary of the taxes in anticipation of which said bonds are issued, when received into the state treasury, shall be applied exclusively to the payment of the principal and interest of said bonds.

Limit of gross amount. § 3. The gross amount of the bonds issued, as hereinbefore provided for, shall at no time exceed fifty per centum of the amount of taxes authorized to be levied and collected for the current expenses of government for the fiscal year in which said bonds are issued, and the comptroller shall include in his annual report to the legislature a detailed statement of all bonds so issued.

L. 1883, Chap. 69 — An act to abolish the office of the auditor of the canal department.

Office abolished. SECTION 1. The office of auditor of the canal department is hereby abolished.

Powers and duties of office to be performed by the comptroller. § 2. All the powers and duties heretofore exercised by and enjoined upon the auditor of the canal department shall hereafter be performed by and incumbent upon the comptroller, except that any duty now performed by the auditor of the canal department as clerk or secretary of any existing board shall be performed by the chief clerk of the bureau of canal affairs hereinafter created, and hereafter there shall be established and maintained in the office of said comptroller a bureau to be called the bureau of canal affairs, to which bureau shall be transferred all the books, records, papers, archives and furniture of the present office of the auditor of the canal department, and the comptroller may retain so much of the clerical force now in said office hereby transferred as in his judgment may be necessary, and at such compensation for such services rendered as he may deem just and proper, not exceeding the sum of six thousand dollars.

Repeal. § 3. All acts and parts of acts inconsistent with this act are hereby repealed.

[The following statutes, relating to the auditor of the canal department, appear more or less applicable to the comptroller, under L. 1883, ch. 69, § 2. For additional statutes of the same character, see *post*, ch. 9, tit. 9, relating to the canals, and the titles of particular subjects in the index.]

L. 1848, Chap. 162 — An act in relation to the canal department.

[Section 1 creates the office of auditor, and abolishes the office of chief clerk of the canal department.]

His powers and duties. § 2. All the powers and duties of the chief clerk of the canal department, and all the powers and duties of the comptroller in relation to the canals, except his powers and duties as commissioner of the canal fund, are hereby transferred to, and vested in the said auditor; and the said auditor shall also be secretary of the commissioners of the canal fund, and of the canal board.

[Section 3 provides for the auditor's official seal.]

Books and papers, where to be deposited. § 4. All books and papers pertaining to the duties of said auditor, or to the duties of the commissioners of the canal fund, or of the canal board, shall be deposited in the canal department, and be securely and safely kept by said auditor.

Copies to be evidence. § 5. Copies of books or papers mentioned in the preceding section, and transcripts from the minutes of the proceedings of the commissioners of the canal fund, and of the canal board, certified by the said auditor under his official seal, shall be evidence equally and in like manner as the original.

Auditor to employ and pay clerks. § 6. The power now given by law to the commissioners of the canal fund to employ and pay the necessary clerks in the canal department, is hereby vested in the said auditor, and the names of the clerks employed, and the sums paid to each, and the length of time he was employed, shall be annually reported by the auditor to the legislature at the commencement of its session.

Auditor to prepare statement of tolls, etc. § 7. The statement of the tolls collected upon all the canals of the state during each season of navigation, which by section twenty-seven, of chapter three hundred and twenty, of the laws of eighteen hundred and thirty-one, the commissioners of the canal fund are required to prepare and lay before the legislature, shall be so prepared and laid before the legislature by the said auditor, and in addition to the tolls collected, it shall contain an exhibit of the trade and tonnage of the canals, substantially as the same is given in the report for the year eighteen hundred and forty-seven.

Dues to be paid to auditor. § 8. Dues to the state which have heretofore been paid to the commissioners of the canal fund, shall on and after the first day of October next be paid into the state treasury.

Balances, how to be credited. § 9. All balances standing to the credit of the commissioners of the canal fund on the first day of October next, in any depository shall as of that date be transferred by the said commissioners to the credit of the treasurer of the state.

Treasurer, when to transfer deposits. § 10. Whenever directed by the commissioners of the canal fund, the treasurer shall transfer from one depository to another, by a draft to be countersigned and entered by the said auditor, any canal fund moneys standing to his credit, and no such moneys shall be transferred by the treasurer from one depository to another, unless by such direction.

Payments after October 1, 1848. § 11. All moneys now authorized by law to be paid or advanced by the commissioners of the canal fund, and all moneys which shall hereafter be authorized to be paid or advanced from the canal fund, shall on and after the first day of October next, be paid by the treasurer, on the warrant of the said auditor; but no warrant shall be drawn, unless authorized by law, and every warrant shall refer to the law under which it is drawn.

Checks to be countersigned. § 12. The said auditor shall countersign and enter all checks drawn by the treasurer in payment of his warrants and all receipts for canal monies paid to the treasurer, and no such receipts shall be evidence of payment unless so countersigned.

Accounts, how kept. § 13. The accounts of receipts and payments on account of the canals, and the canal fund and debt, heretofore kept by the commissioners of the canal fund, shall, on and after the first day of October next, be kept by the said auditor.

Auditor to make statement at close of fiscal year. § 14. As soon as possible after the close of each fiscal year, the said auditor shall submit to the commissioners of the canal fund a statement of the receipts and payments on account of the canals and

the canal debt, and the balances of the funds on hand, the depositories of the same, and the conditions thereof; which statement shall accompany the annual report of the said commissioners to the legislature.

Provision in case of sickness or absence. § 15. In case of the absence or sickness of the said auditor, he may designate one of his clerks as acting auditor, who may perform any of his duties, except the drawing of warrants on the treasury, and the auditing of accounts.

L. 1857, Chap. 783 — An act in relation to the auditor of the canal department.

[Section 1 relates to the appointment of the auditor, his term of office, and salary.]

[Section 2 provides for his suspension from office for misconduct.]

[Section 3 relates to the contracting board, which was abolished by L. 1870, ch. 55.]

Auditor to sign certificate of stock. § 4. All certificates of stock hereafter issued by or under the direction of the commissioners of the canal fund and purporting to be issued from the canal department, shall be signed by the auditor of the canal department, instead of the comptroller, and be sealed with the seal of the canal department instead of the seal of the comptroller.

Repeal. § 5. All laws and parts of laws, so far as the same may be in conflict with the provisions of this act, are hereby repealed.

L. 1861, Chap. 177 — An act in relation to the auditor of the canal department.

Auditor to pay moneys into the treasury, etc. SECTION 1. It shall be the duty of the auditor of the canal department to pay into the treasury, all moneys now held by him in trust for the people of this state, and the several contractors for repairs on the canals of this state, to whom repair contracts have been awarded by the contracting board, and shall also pay into the treasury all such moneys as may hereafter come into his hands to be held as security for the performance by a contractor of a repair contract, and the moneys so paid into the treasury shall be kept separate and apart from other moneys and funds belonging to this state, and shall be known and denominated as the "repair trust fund."

Moneys to be invested by commissioners of canal fund. § 2. The moneys so paid into the treasury by the said auditor, shall be invested, and the interest on such investments shall also be invested by the commissioners of the canal fund, in the same manner as now provided by law in respect to the surplus revenues of the canal fund, but the sum of money deposited by each contractor with the auditor and paid into the treasury, shall be invested separately from the moneys deposited by other contractors, so as that the same may be distinctly known and appear on the books of the canal department, and in the proceedings of the commissioners of the canal fund.

When contractors fail to perform their contract. § 3. Whenever any contractor or contractors or his or their assignee or assignees fail to perform his or their contract, and the same shall be declared forfeited or abandoned, the moneys so deposited by such defaulting contractor or contractors or his or their assignee or assignees with accumulations thereon shall be transferred from the said trust fund to the canal fund and thereafter held as a part of that fund; and whenever any contract, for the performance of which any deposit has been or is made as security, shall be fully executed and performed, the sum or sums so deposited with the accumulations thereon shall be repaid to such depositor on the warrant of the auditor, on the production to him of the draft of the canal commissioner in charge of the section or work under contract.

[Section 4 relates to the auditor's term of office and salary.]

Deputy auditor. § 5. The said auditor may designate one of his clerks as deputy auditor, who, in case of the sickness or absence of said auditor, may perform any of his duties, except such duties as pertain to the contracting board, the drawing of warrants on the treasury, the auditing of accounts and the transferring of canal fund moneys from one depository to another.

Compensation of clerks in canal department. § 6. The said auditor is hereby authorized to allow and pay the sum of eight hundred dollars annually, or so much thereof as he may deem necessary beyond the sums now limited by law, as a compensation to the clerks employed by him in the canal department, but the whole sum paid for clerk hire, in the department, in any one year shall not exceed eight thousand dollars.

Annual report. § 7. The annual report and statement required by the fourteenth section of the act, chapter one hundred and sixty-two of the laws of eighteen hundred and forty-eight, to be made by the auditor to the commissioners of the canal fund, shall hereafter be made to the legislature, and shall embrace all the particulars heretofore required in the annual report of the commissioners of the canal fund.

Repeal. § 8. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

L. 1872, Chap. 115 — An act to supply the deficiency in the appropriation, etc., * * * and to regulate the manner of drawing warrants by the auditor of the canal department upon the treasurer.

[All temporary except § 4.]

All warrants drawn by auditor to specify the chapter and date of passage of law, etc. § 4. Hereafter each warrant that may be drawn by the auditor of the canal department upon the treasurer for the payment of any moneys heretofore or hereafter appropriated by law, shall particularly specify the chapter and date of the passage of such law, and when more than one item of appropriation is contained in any such law, then the said warrant shall also specifically state the item of appropriation out of the sum of which the amount of such warrant shall be paid.

TITLE 3.**ARTICLE SECOND.****OF PROCEEDINGS AGAINST PERSONS ACCOUNTABLE FOR PUBLIC MONIES.**

- SEC. 19.** Comptroller may issue a notification to any person receiving and not accounting for public monies.
20. The requirements of such notification.
21. To be served by sheriff of county in which person, to whom it is directed, resides.
22. Return of it to comptroller's office, verified by the sheriff, evidence of the proceedings.
23. If party fails to account within the time mentioned in notification, copy of account to be given to attorney-general for prosecution.
24. Such copy of account, certified by comptroller, sufficient evidence to support action for balance therein stated.
25. Defendant to pay costs, unless sued in a representative character.
26. When accounts are rendered, comptroller to examine, and, if regular, to settle them.
27. When settled, comptroller to send copy to party.
28. Certified copy of account, sufficient evidence to support action for balance therein stated.
29. If, upon the trial, the defendant shall give any other evidence than was adduced to the comptroller, he shall pay costs.
30. Where a number of persons receive monies, comptroller may settle their accounts separately.
31. If any one of them be sued, he cannot plead in abatement his connection with others.
32. Nothing in this article to impair any other remedy that might be used independent of it.

Notification.

§ 19. Whenever the comptroller shall deem it expedient, he shall issue a notification, in the name of the people of this state, to any person who shall have received monies belonging to the state, for which he shall not have accounted. In case of the death of such person, the notification shall be directed to his legal representatives

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[1 R. L., 478, §§ 15 and 16]

Ib.

§ 20. Such notification shall require, that within a limited period, not less than sixty nor more than ninety days from the date thereof, all the accounts and vouchers for the expenditure of such monies, shall be rendered to the comptroller.

[1 R. L., 478, §§ 15 and 16.]

How served.

§ 21. Such notification shall be served by the sheriff of the county where the person, to whom the same shall be directed, shall reside, by delivering a copy thereof to him, or by leaving such copy at his usual place of abode, at least forty days before the time limited in the notification for rendering such accounts and vouchers.

[1 R. L., 478, §§ 15 and 16.]

Evidence of service.

§ 22. The return of such notification to the comptroller's office, with the certificate of the sheriff indorsed thereon, that the service has been made by delivering a copy of the notification to such person, or by leaving such copy at his usual place of abode, shall be conclusive evidence of the proceedings.

[1 R. L., 478, §§ 15 and 16.]

Proceedings if no account rendered.

§ 23. In case the party shall fail to render such accounts and vouchers, within the time limited in such notification, the comptroller shall state an account against him, charging interest at the rate of seven per cent. per annum, from the time the notification was

served, and shall deliver a copy of such account to the attorney-general for prosecution. ART. 2.

[1 R. L., 478, § 19.]

§ 24. Such copy, certified by the comptroller, shall be sufficient evidence to support an action for the balance therein stated, subject to the right of the defendant to plead and give, in evidence, all such matters as shall be legal and proper for his defence or discharge. Proceedings if no account rendered.

[1 R. L., 478, § 19.]

§ 25. The party so sued, shall be subject to the costs and charges of suit, whether the ultimate decision be against him, or in his favor, unless sued as the representative of the original party. Ib.

[1 R. L., 478, § 19.]

§ 26. Whenever accounts and vouchers are rendered within the time limited in a notification, or without any notification being issued, the comptroller shall proceed immediately to examine the same, and if such accounts and vouchers are regular and sufficient, shall liquidate and settle them; but if any of the necessary vouchers are wanting, or are, in his opinion, insufficient, he shall give notice to the party, and require him to supply such defect, within the period of not less than sixty, nor more than ninety days; and at the expiration of the time limited, the comptroller shall liquidate and settle such accounts, upon the vouchers and proofs which shall have been delivered to him. Proceedings if account be rendered.

[1 R. L., 478, § 17.]

§ 27. When the comptroller shall have settled any such account, he shall transmit a copy of the account, as settled by him, to the party; and if any balance is certified to be due to the state, and the same shall not be paid to the treasurer within ninety days thereafter, the comptroller shall deliver a copy of such account to the attorney-general, for prosecution. [174] Proceedings when account is settled.

[1 R. L., 478, § 17.]

§ 28. Such copy, certified by the comptroller, shall be sufficient evidence to support an action for the balance therein stated, subject to the right of the defendant, to plead and give in evidence all such matters as shall be legal and proper for his defence or discharge. Ib.

[1 R. L., 478, § 17.]

§ 29. If any such defendant shall, upon the trial in any such action, give any evidence other than such as was produced to the comptroller, such defendant shall be subject to the costs and charges of such suit, whether the ultimate decision shall be against him, or in his favor. Ib.

[1 R. L., 478, § 17.]

§ 30. Where any number of persons shall have received any monies for which they are accountable to the state, the comptroller may, in his discretion, settle the accounts of any one or more of them, separately. Joint accounts.

[1 R. L., 478, § 18.]

§ 31. In such case, no person shall be allowed to plead in abatement, to any suit to be brought for any balance which shall be certified to be due from him or them, or to give in evidence upon the Ib.

TITLES. trial thereof, that any other person was concerned with him or them, in the receipt or expenditure of the said monies.

[1 R. L., 478, § 18.]

Proviso. § 32. Nothing in this article contained shall be construed to impair any legal remedy which might be used, if this article was not in force, for the recovery of any debt due or to become due to the people of this state.

[1 R. L., 478, § 22.]

ARTICLE THIRD.

OF THE SETTLEMENT OF ACCOUNTS FOR LANDS PURCHASED FROM, OR MORTGAGED TO, THE PEOPLE OF THIS STATE.

Sec. 33. Comptroller to open accounts against persons for a subdivision of lot purchased from or mortgaged to the state.

34. To apply prior payments to the credit of the part to which they were intended to be applied.

35. Where separate receipts were given by treasurer for payments made on such part, such receipts to be delivered to comptroller.

36. When a mortgage given to the state is paid, treasurer's receipt to be a sufficient discharge.

37. When part of a lot mortgaged to state is paid off, comptroller shall discharge the same.

38. If it be part of lot purchased from the state but not conveyed, comptroller to certify that it has been paid off.

39. Although no separate account is opened, comptroller to execute discharge when principal and interest on subdivision is paid.

[175] 40. Persons claiming benefit of 33d and 39th sections, to produce map and survey.

41. Comptroller may assign mortgages given to state.

Separate accounts. § 33. It shall be the duty of the comptroller, on application to him for that purpose, to open accounts in his office against any person, for any part or subdivision of any lot of land purchased from, or mortgaged to the state, for the proportionate part of the monies due to the state on any such part or subdivision, and thereafter to give credit for the payments on the several parts or subdivisions, as the persons making such payments may require.

[1 R. L., 476, § 4; L. 1815, 10, § 3.]

Prior payments. § 34. The comptroller may pass any prior payments, to the credit of any part or subdivision, which shall appear by satisfactory proof, to have been originally intended to be paid on such part or subdivision, or by, or for the use of, the person claiming the credit, whether so expressed in the receipts or not; but no part of any such payments shall go to the reduction of the principal due on any such part or subdivision, unless the payments shall exceed the interest, calculated on the principal due, on such part or subdivision, to the day when such part or subdivision is to be paid off, or a new account to be opened therefor.

[1 R. L., 476, § 5.]

Receipts. §. 35. Where it appears that separate receipts were given by the treasurer, for any payments which may be claimed to be credited to the account of any such part or subdivision, the receipts shall be delivered up to the comptroller, to be filed in his office.

[1 R. L., 476, § 5.]

Discharge of mortgages. § 36. Whenever any mortgage given to the people of this state shall be paid, the treasurer's receipt, countersigned by the comp-

troller, setting forth that the whole sum due on any such mortgage has been paid, shall be a sufficient discharge of such mortgage; and the secretary of state or county clerk, in whose office any such mortgage shall have been registered, shall enter a minute of such payment on the margin of the registry of such mortgage. ART 3.

[1 R. L., 475, § 2.]

§ 37. When any part or subdivision, for which a separate account has been opened, shall have been fully paid, the comptroller shall, if the same be a part or subdivision of a lot mortgaged to the people of this state, discharge the same from such mortgage; and his certificate shall be sufficient to authorize the secretary of state or county clerk to enter a minute of such payment on the margin of the registry of such mortgage. Discharge of part of mortgage.

[1 R. L., 475, §§ 3, 4.]

§ 38. If the part or subdivision so paid off, be a part or subdivision of a lot purchased from, but not granted by the state, then the comptroller shall certify that such part or subdivision has been so paid off. Ib .

[1 R. L., 475, §§ 3, 4.]

§ 39. The comptroller may also execute the like discharge or certificate, whenever the owner of any such part or subdivision, shall have paid into the treasury, the full proportion of principal and interest due thereon, though no separate account shall have been opened therefor. [176] Discharge of part without separate account.

[1 R. L., 475, §§ 3, 4.]

§ 40. Every person claiming the benefit of the thirty-third and thirty-ninth sections of this title, shall produce a map and return of survey of the whole lot, showing particularly the part or subdivision owned by him, and shall also produce satisfactory proof, that the residue of the lot is sufficient security for the sum remaining due thereon. Duties of applicants.

[1 R. L., 475, §§ 3, 4.]

§ 41. The comptroller may, in his discretion, on the request in writing of the owner or owners of any land mortgaged to the people of this state, who shall then be in the actual possession of such land, assign such mortgage, together with the bond or other collateral instrument accompanying the same, to such person as shall be named by such owner or owners; on payment by such assignee, into the treasury, of the amount of principal and interest due on such mortgage. Assign- ment of mortgages.

[L. 1822, 193, § 1; L. 1825, 441, § 1.]

[Various additional provisions relating to the comptroller will be found in statutes relating to particular subjects scattered throughout this compilation; see particularly chapter 9, *post.*]

TITLE 4.

TITLE IV.

Of the Treasurer.

- Sec. 1. Treasurer to receive monies paid into treasury.
 2. To give bond in sum of fifty thousand dollars.
 3. Effect of bond.
 4. When bond of former treasurer to be given up.
 5. No monies to be paid by him, except on warrant of comptroller.
 6. Treasurer to report annually to legislature.
 7. Monies received by treasurer, where to be deposited.
 8. Monies deposited in Manhattan Bank in New York, subject to be drawn for.
 9. Disposition to be made of those monies.
 10. Treasurer to keep a bank book with such banks.
 11. Said banks to transmit monthly accounts to treasurer.
 12. Monies to be drawn by checks of treasurer, countersigned by comptroller.
 13. Treasurer to exhibit his bank book to comptroller monthly.
 14-18. Repealed.

Duty. SECTION I. The treasurer shall receive all monies which shall,
 1 Lans., 48; from time to time, be paid into the treasury of this state.
 75 N. Y.,
 547. [1 R. L., 472, § 1.]

Bond. § 2. The treasurer shall, within ten days after he receives notice
 of his election, and before he enters upon the execution of his office,
 give a bond to the people of this state in the sum of fifty thousand
 [177] dollars, with not less than four sufficient sureties, to be approved of
 by the president of the senate and speaker of the house of assembly,
 conditioned that he will faithfully execute the duties of his office;
 which bond shall be deposited in the office of the secretary of state.
 [1 R. L., 472, § 1.]

Id. § 3. Such bond shall be deemed to extend to the faithful execu-
 tion of the office of treasurer, by the person elected thereto, until a
 new appointment of treasurer be made, and a new bond given, under
 such appointment.
 [1 R. L., 472, § 1.]

Id. § 4. After such new appointment shall have been made, and such
 new bond given, upon the filing in the office of the secretary of
 state, of a certificate from the committee who shall have examined
 and settled the accounts of the treasurer of the preceding year, ex-
 pressing that such accounts are regularly stated and balanced, and
 that the balance, if any there be, in monies, securities, and other
 effects, is actually in the treasury, or deposited as by law directed,
 the bond given by such treasurer and his sureties shall be discharged,
 and delivered up to be cancelled.
 [1 R. L., 472, § 6.]

Payments. § 5. The treasurer shall pay all warrants drawn by the comptroller
 on the treasury; and no monies shall be paid out of the treasury,
 except on the warrant of the comptroller.
 [1 R. L., 477, § 9.]

Annual report. § 6. The treasurer shall exhibit to the legislature, at its annual
 meeting, an exact statement of the balance in the treasury to the
 credit of the people of this state; with a summary of the receipts
 and payments of the treasury during the preceding year.
 [1 R. L., 473, § 5.]

§ 7. The treasurer shall deposit all monies that shall come to his hands on account of this state, except such as belong to the canal fund, within three days after receiving the same, in such bank or banks in the city of Albany, as in the opinion of the comptroller and treasurer, shall be secure, and pay the highest rate of interest to the state for such deposit.

[See L. 1837, ch. 2, § 3; in ch. 9, *post.*]

§ 8. All monies directed by law to be deposited in the Manhattan bank, in the city of New York, to the credit of the treasurer, shall remain in said bank, subject to be drawn for as the same may be required.

§ 9. The comptroller may transfer the deposits in the Manhattan bank from time to time to the bank or banks in the city of Albany, in which the monies belonging to this state shall be deposited, pursuant to the foregoing seventh section of this title, so often as it will be for the interest of the state to transfer such deposits; but the comptroller may continue such deposits in the Manhattan bank, if the said bank shall pay a rate of interest to the state for such deposits, equal to that paid by the bank or banks in Albany, in which the state deposits shall be made.

§ 10. The monies so deposited shall be placed to the account of the treasurer; and he shall keep a bank book, in which shall be entered his account of deposits in, and monies drawn from, the banks in which such deposits shall be made.

[1 R. L., 473, § 3.]

§ 11. The said banks shall respectively transmit to the comptroller, monthly statements of the monies which shall be received and paid by them on account of the treasury.

[L. 1821, 162, § 2.]

§ 12. The treasurer shall not draw any monies from such banks, unless by checks subscribed by him as treasurer, and countersigned by the comptroller; and no monies shall be paid by either of the said banks, on account of the treasury, except upon such checks.

[L. 1821, 162, § 2; 1 R. L., 473, § 3.]

§ 13. The treasurer shall exhibit his bank book to the comptroller for his inspection, on the first Tuesday in every month, and oftener, if required.

[L. 1821, 162, § 2; 1 R. L., 473, § 3.]

[Sections 14-18 were repealed by L. 1841, ch. 218, *post.*, which provides a substitute therefor. For various additional provisions, relating to the treasurer, see ch. 9, *post.*]

L. 1831, Chap. 320—An act relative to the finances of this state, and the duties of the comptroller and the commissioners of the canal fund.

May appoint a deputy. § 21. The treasurer is hereby authorized to appoint a deputy treasurer who may perform any of the duties of the treasurer (except the signing of checks, and the duties of the treasurer as commissioner of the land-office, commissioner of the canal fund, and state canvasser), and for whose conduct the treasurer shall be responsible.

[The remainder of this statute is in chapter 9, *post.*]

TITLE 4.
Deposits.
1 Lans., 48;
75 N. Y.,
547.

[179]

Bank
accounts.

Monthly
statements.

Checks.
75 N. Y.,
547.

Bank book
to be ex-
hibited.

L. 1839, Chap. 23—An act providing for the settlement of the accounts of the treasurer of this state.

Committee how to be appointed. SECTION 1. Whenever any treasurer of this state shall die or resign during the year for which he was elected, or shall be succeeded at the expiration of his term by another person, duly elected to the same office, there may be appointed by concurrent resolution of the senate and assembly, a committee of three persons, one senator and two members of assembly, by the respective houses, to examine the accounts of such treasurer.

[Sec. 2 is omitted as temporary.]

Committee how to be governed. § 3. The committees under this act shall be governed in their examination, certificate and report, by the provisions of title fourth, chapter eighth, of the first part of the Revised Statutes; and their certificate shall have the same effect as that of a committee on the treasurer's accounts under the said title.

[See L. 1841, ch. 218, *post*, repealing the provisions of title 4, referred to in the foregoing section.]

L. 1841, Chap. 218 — An act relating to the examination of the treasurer's accounts, and the canal and banking departments.

Canal department. SECTION 1. All business relating to the canals of this state, and improvements connected therewith required to be performed by the commissioners of the canal fund, the canal board and the comptroller, shall be transacted in rooms appropriated for that purpose in the state-hall to be denominated the canal department, and the chief clerk now authorized to be appointed by the commissioners of the canal fund, pursuant to the act passed May 13, 1840, shall be known and recognized in law as chief clerk of said department.

Treasurer's accounts when to be closed and examined annually. § 2. The accounts of the treasury shall be annually closed on the thirtieth day of September, and shall be examined during the months of October, November and December in each year by a joint committee consisting of one member of the senate and two of the assembly, to be appointed by ballot under concurrent resolution of the two houses of the legislature at the session previous to said time of examination in each year; the said committee shall during the same time examine into the condition of the banking department, pursuant to the act passed May 14, 1840.

Duty of committee to examine treasurer's accounts. § 3. Such committee shall examine the accounts and vouchers relating to all moneys received into and paid out of the treasury, during the year ending on the thirtieth of September preceding such examination, and shall certify and report to the legislature at its next session the amount of moneys received into the treasury during such year, the amount of moneys paid out of it, during the same period, by virtue of warrants drawn on the treasury by the comptroller; the amount of moneys received by the treasurer who shall then be in office at the time of such examination, when he entered on the execution of the duties of his office; and the balance in the treasury on the thirtieth day of September preceding such examination.

Warrants to be compared with laws. § 4. Such committee shall also compare the warrants drawn by the comptroller on the treasury during the year ending on the said thirtieth day of September preceding, with the several laws under which the same shall purport to have been drawn; and shall in like manner certify and report whether the comptroller had power to draw such warrants; and if any shall be found which in their opinion he had no power to draw, they shall specify the same in their report, with their reasons for such opinion.

Accounts of commissioners of canal fund to be examined. § 5. Such committee shall also examine the accounts of the commissioners of the canal fund, of the canal commissioners, of the superintendents of repairs and collectors of tolls, and all

other accounts kept in the canal department, and report to the next legislature the condition of those accounts and whether the receipts and disbursements have been made according to the provisions of law, and also to report the receipts and disbursements on account of each and every canal and improvement respectively.

Majority of committee to act. § 6. The major part of the members of such committee may perform all the duties required by law of the committee.

Pay of committee. § 7. The members of the committee appointed by this act, shall receive the same compensation from the treasury for services and travel as is allowed to members of the legislature.

[Section 8 repeals portions of the R. S.]

L. 1862, Chap. 21—An act providing for the distribution of soldiers' allotments.

State treasurer to receive money allotted and receipt for the same. SECTION 1. It shall be the duty of the treasurer of this state to receive from the paymaster general of the United States army, or from the secretary of the treasury of the United States, such sum or sums as may have been or may hereafter be assigned by volunteers in the service of the United States for the benefit of their families or others, in conformity with orders of the war department and to give the necessary receipts therefor.

Treasurer to make a list of persons and transmit them to county treasurers. § 2. The treasurer of this state, as often as once in every three months shall cause to be made a list of all persons to whom moneys are assigned, classified by counties, and shall mail to the county treasurer of each county the list of assignees residing in such county.

County treasurers to give notice of list to assignees; moneys to be drawn on draft and written request of assignee. § 3. It shall be the duty of the county treasurer immediately, on receiving the list from the treasurer of the state to give notice thereof to the assignees and to ascertain if it be their desire to receive the moneys assigned to them, through the county treasurers. In all cases where such is their desire, it shall be the duty of the county treasurers to procure a written request to that effect, which shall accompany their drafts upon the treasurer of the state, and no moneys shall be drawn from the treasurer of the state unless it be upon such draft and upon the written request of the said assignee, the identity of whom shall be duly certified by the supervisor or a justice of the peace of the town or ward where the assignee resides, but the request when once made shall remain in force until finally revoked in writing.

County treasurer to keep record. § 4. County treasurers shall enter the names, rank, pay per month, amount to be reserved, name and address of assignees on a list prepared for that purpose, which shall be preserved as a permanent record of his office and shall require the signature of the assignee or his or her order in writing, in receipting from time to time for the amount assigned.

Comptroller to draw his warrant on treasurer. § 5. The comptroller shall draw his warrant upon the treasurer in favor of county treasurers upon their complying with the provisions of this act. All moneys uncalled for and remaining in the hands of county treasurers for the period of one year, shall be repaid by them to the treasurer of the state. The aggregate of the sums hereby authorized to be paid over to the county treasurers is hereby appropriated payable as aforesaid and for the purposes named. No fee or charge shall be made or received by any officer under this act.

TITLE 5.

TITLE V.

Of the Attorney-General.

- Sno.** 1. To defend and prosecute all suits in which state is interested.
 2. To receive all costs adjudged to state in any action, and to pay sheriff fees, etc.
 3. When such fees cannot be collected by him of opposite party, the amount to be paid out of the treasury.
 4. To prepare drafts for comptroller or surveyor-general.
 5. When required by governor or a judge of supreme court he shall attend courts of oyer and terminer.
 6. When he so attends, to be reasonably paid out of treasury.
 7. When to prosecute at request of governor, secretary of state, etc.
 8. To attend trial of indictments for corrupting or attempting to corrupt members of legislature, etc.
 9. To attend trial of indictments under laws against dueling.
 10-14. Repealed.
 15. Debts, etc., received by attorney-general, to be paid into treasury.
 16. Repealed.
 17. To keep register of suits, etc.

General duty.
 2 Duer, 667;
 85 N. Y.,
 203; 53
 Barb., 176.

SECTION I. It shall be the duty of the attorney-general to prosecute and defend all actions, in the event of which, the people of this state shall be interested.

[1 R. L., 156, § 3; 347, § 22.]

58 N. Y., 1; 52 N. Y., 306; 16 Abb., N. S., 206; 67 N. Y., 334; 21 Hun, 476; 28 Hun, 543; 31 Hun, 569.

Costs and fees.

§ 2. In all actions prosecuted or defended by him, in which costs are adjudged to the people of this state, or to any person in whose name such action shall be prosecuted or defended for their benefit, the attorney-general shall be entitled to such costs; and he shall pay the taxable fees of sheriffs, clerks, and witnesses, in all such actions.

[1 R. L., 156, § 3; 347, § 23.]

When to be paid out of treasury.

§ 3. Whenever any such taxable fees so paid by the attorney-general, can not be collected by him of the opposing party, the amount so paid shall be audited by the comptroller, and paid to the attorney-general out of the treasury; and if such fees are subsequently collected of the opposing party, they shall be paid into the treasury.

[1 R. L., 156, § 3; 347, § 23.]

To prepare drafts.

[180]

§ 4. The attorney-general, whenever requested by the comptroller or the surveyor-general, shall prepare proper drafts for contracts, obligations, and other instruments which may be wanted for the use of the state.

To attend courts.

§ 5. Whenever required so to do, by the governor, or by one of the justices of the supreme court, the attorney-general shall attend the courts of oyer and terminer and jail delivery, for the purpose of managing and conducting the suits and prosecutions of the people of this state.

[1 R. L., 337, § 7.]

Compensation therefor.

§ 6. Whenever the attorney-general, in consequence of such a requisition, shall attend a court of oyer and terminer, he shall be entitled to his expenses, and a reasonable compensation for his services. The amount shall be certified by the governor, and paid out of the treasury.

§ 7. It shall be the duty of the attorney-general, at the request of the governor, the secretary of state, the comptroller, the treasurer, or the surveyor-general, to prosecute every person who shall be charged by either of those officers with the commission of an indictable offence in violation of the laws, which such officer is specially required to execute, or in relation to matters connected with his department.

TITLE 5.
To prosecute in certain cases.

§ 8. He shall cause all persons who may be indicted, for corrupting or attempting to corrupt any member of the legislature, or any member elect of the senate or assembly, or any commissioner of the land-office, to be brought to trial; and to attend in person to the execution of the duties hereby required of him.

Ib.

[2 R. L., 192, § 3.]

§ 9. He shall also cause all persons who may be indicted for any offence against the laws for the prevention of dueling, to be brought to trial; and shall attend in person to the discharge of the duties hereby required of him.

[181]

[2 R. L., 193, § 7.]

[Sections 10-14 were repealed by L. 1880, ch. 245.]

§ 15. All monies received by the attorney-general, for debts due or penalties forfeited to the people of this state, shall be paid by him, immediately after the receipt thereof, into the treasury.

To pay monies received.

[Section 16 was repealed by L. 1848, ch. 357.]

§ 17. The attorney-general shall keep, in proper books to be provided for that purpose, at the expense of the state, a register of all actions and demands prosecuted or defended by him in behalf of the people of this state, and of all proceedings had in relation thereto; and shall deliver the same to his successor in office.

Register.

L. 1829, Chap. 252 — An act relative to suits on behalf of the people of this state.

In whose name suit to be brought. SECTION 1. Where any one or more of the officers or agents of this state, either by his or their name or names, or by the name of his or their office or offices, are or shall be one of the parties to, or shall have executed or shall hereafter execute, any bond, covenant, contract, promise or agreement, in a matter concerning the people of this state, and in which the said people, and not such officer or agent, are or shall be the real party in interest, it shall and may be lawful to bring and maintain actions against the other party or parties to any such bond, covenant, contract, promise or agreement for the breach or non-performance of the same, in the name of the people of this state, in the same manner and with the like effect, as though the said people, instead of such officer or agent, had been named and described as a party to, and had executed such bond, covenant, contract, promise or agreement; but no such action shall be brought except by the attorney-general on behalf of the people.

L. 1848, Chap. 357—An act relative to the office of attorney-general and district-attorney; and to defray certain contingent expenses of the state officers.

[Section 1 repealed by L. 1886, ch. 593.]

Attorney-general may employ additional counsel. § 2. The attorney-general shall be, and is hereby authorized to employ additional counsel in prosecuting and defending suits and proceedings in which the people are a party, or are interested, at any general or special term, or at chambers of the supreme court in any of the judicial districts of the state, whenever the discharge of other official duties shall prevent him attending in person.

Fee to be allowed. § 3. A reasonable counsel fee to be certified by the governor for the services of such counsel as mentioned in the last preceding section, shall be allowed and paid out of the treasury.

89 Hun, 445 ; 88 N. Y., 571.

[Section 4 was repealed by L. 1864, ch. 280.]

Repeal. § 5. Section sixteenth of title fifth, chapter eighth, part first of the Revised Statutes, and all laws repugnant to or inconsistent with the provisions of this act are hereby repealed.

L. 1873, Chap. 643 — An act to provide for the support of government and for other purposes.

[The general appropriation act.]

Extract from § 1. All costs adjudged to the people of this state, in actions prosecuted or defended by the attorney-general, may be applied by him, in his discretion, to any of the purposes for which appropriations are hereinbefore made in relation to his office, and the attorney-general shall, at the close of each fiscal year, render to the comptroller an account of such costs received, with vouchers of such expenditures.

L. 1878, Chap. 40 — An act to provide for the appointment and compensation of deputies and clerks in the attorney-general's office.

Deputies and clerks in; compensation; removals. SECTION 1. The attorney-general may appoint for the duties of his office two deputies to be designated as first and second; two clerks, and one messenger, who shall severally be paid the following annual salaries: the deputies four thousand dollars each, the clerks two thousand dollars each, and the messenger who shall also perform the duties of clerk when required by the attorney-general, the sum of one thousand dollars, all of said salaries to be payable monthly. Any officer hereinbefore authorized to be appointed may be removed by the attorney-general at pleasure and another appointed in his stead.

[Section 2 repeals inconsistent acts.]

L. 1888, Chap. 269 — An act making appropriations for the support of government.

[The general appropriation act.]

Extract from § 1. The salaries of the deputies, clerks, stenographer and messenger in the office of the attorney-general shall be fixed by the attorney-general, and he shall have the authority to employ as many deputies and clerks as he may need, and a stenographer and messenger, and to designate their salaries out of the appropriations therefor herein made, but the aggregate of their salaries shall not exceed the total of the appropriation herein made for deputies, clerks, stenographer and for messenger, and the attorney-general may appoint clerks and a messenger and a stenographer, at the amounts fixed by him, the total whereof shall not exceed the sum of sixteen thousand dollars hereinbefore appropriated.

[A similar provision is contained in each successive annual appropriation act for several years.]

TITLE VI.

Of the Surveyor-General.

[This office was abolished by art. V, § 2, and art. XIV, § 3, of the Constitution of 1846, which provided for the office of state engineer and surveyor, with much more extended duties. But as the statutes applicable to the surveyor-general are made applicable, by L. 1868, ch. 72, to the state engineer and surveyor, this title is yet in force.]

- Sec. 1. To superintend surveys and sales of lands belonging to state.
- 2. To keep in his office a map of state.
- 3. When the bounds of a town cannot be delineated on his map, surveyor-general may order a special survey.
- 4. If supervisor of town neglect to make such survey, to be prosecuted by attorney-general.
- 5. In case of disputes between towns, as to bounds, surveyor-general to direct survey, and determine disputes.
- 6. Determination to be filed in secretary's office.
- 7. Surveyor-general to account with comptroller for monies received by him.

SECTION I. It shall be the duty of the surveyor-general to superintend the surveys and sales of lands belonging to the people of this state, in the mode required by law, and according to the directions of the commissioners of the land-office, where such directions shall have been given. [182]
General
duties.

§ 2. He shall retain in his office a map of this state, and shall from time to time, delineate thereon the bounds of all towns or counties erected or altered by the legislature. Map.

§ 3. Whenever the bounds of a town already erected, or that may hereafter be erected, or altered, shall appear to be so described in the act erecting or altering the same, that they cannot be delineated by the surveyor-general, on the map of this state, without a survey specially made for that purpose, he shall direct the supervisor of such town to cause such survey to be made, and to transmit the same to the surveyor-general's office. May re-
quire sur-
vey of
towns.

[1 R. L., 483, § 3; 2 R. L., 136, § 31.]

§ 4. In case of the refusal or neglect of any supervisor to perform the duties so enjoined on him, the surveyor-general shall give notice thereof to the attorney-general, to the end that he may prosecute such delinquent supervisor for the penalty imposed by law; which penalty, when recovered, shall be paid to the surveyor-general, and be by him applied to the making of a map of such town. Ib.

[1 R. L., 483, § 4.]

§ 5. Whenever a dispute shall arise between the officers of two or more towns, respecting the bounds of either of such towns, on the same being represented to the surveyor-general, he shall hear the allegations and proofs of the parties, and, if necessary, shall direct a survey to be made, and shall determine such dispute. Disputes
as to town
line.

§ 6. Such determination shall be filed in the office of the secretary of state, and shall be conclusive upon the subject, until the legislature shall, by law, otherwise direct. Determi-
nation to be
filed.

§ 7. He shall, from time to time, account with the comptroller for all monies received by him, in behalf of the state, or from the treasury. To ac-
count.

[1 R. L., 483, § 6.]

L. 1840, Chap. 259—An act imposing certain duties on the surveyor-general.

To preserve maps. SECTION 1. The surveyor-general is hereby authorized and required to collect and preserve all maps, plans, drawings, levels, and surveys of every description made and to be made for the use of the state.

Companies to furnish maps. § 2. Every canal company and every railroad company in this state, to which the credit of the state may have been loaned or which may hereafter ask the aid of the state, shall, so far as may be in their power without making a new survey, furnish to the surveyor-general copies of all maps, plans, drawings, levels, and surveys of every description which may be made in connection with the construction of their canal or railroad.

L. 1842, Chap. 220—An act to amend "An act imposing certain duties on the surveyor-general," passed May 11, 1840.

Room to be prepared for maps, etc. SECTION 1. The surveyor-general, in addition to the duties prescribed in the act hereby amended, is authorized and directed to prepare the room adjoining the one now occupied by him in the new state hall, for the reception of such maps, plans, drawings, profiles and surveys as may be deposited with him by virtue of said act, and to make such fixtures therein as shall to him seem necessary, for their safe keeping. He is also authorized to employ temporarily, a competent draftsman, at such compensation as the comptroller shall determine, whose duty it shall be to arrange the said maps and drawings, and to copy and supply deficiencies in the same.

Maps, etc., subject to inspection. § 2. The maps, drawings and other documents deposited as herein provided, shall be subject to the inspection of the public officers and citizens of this state, at all reasonable hours, but shall not be removed or taken away from the office.

Expenses to be paid. § 3. Any expense incurred in carrying out the provisions of this act, shall be paid by the treasurer, on the warrant of the comptroller.

[Of the State Engineer and Surveyor.]

[The principal duties of this officer, by the Constitution of 1846, and the legislation thereunder, appertain to the canals and public lands. For the statutes relating to these duties, see chapter 9, titles 5 and 9, *post.*]

L. 1848, Chap. 72—An act in relation to the office of state engineer and surveyor and the engineer department.

Office. SECTION 1. The office of the state engineer and surveyor shall be kept in the new state hall, and the trustees thereof shall assign a suitable room or rooms therein for his use.

Powers and duties. § 2. The state engineer and surveyor shall possess all the powers and discharge all the duties prescribed or required by law to be discharged by the surveyor-general prior to the first day of January, eighteen hundred and forty-eight, except his powers and duties as a commissioner of the canal fund.

Supervision of engineer department. § 3. The state engineer and surveyor shall have the general supervision of the engineer department, and shall perform all such duties in relation to the canals, as shall be required by the canal board, and shall visit and inspect the public works of this state as often as in his judgment it shall be necessary.

Canal board to prescribe duties. § 4. The canal board is authorised to prescribe the duties of all such division, resident and assistant engineers as may be appointed pursuant to law.

Division engineers may be appointed. § 5. The canal board may or may not, as it shall deem expedient, appoint during its pleasure not exceeding three division engineers, and the said board shall from time to time, appoint during its pleasure so many resident and assistant engineers as it shall deem necessary to be employed upon the public works of this state, and shall prescribe their compensation.

Services under whose supervision to be performed. § 6. Whenever any division, resident or assistant engineer shall be required by the canal board or the canal commissioners, or the acting commissioner on his division of the canals to perform any service in the line of his duty, he shall perform the same under the supervision of the state engineer and surveyor, and shall, under the sanction of the board or commissioner requiring the same, be authorised to employ the requisite assistants and laborers to enable him to perform such service.

Oath of office to be taken. § 7. Every engineer, surveyor and assistant, before entering upon the duties of his office, shall take and subscribe the oath prescribed by the Constitution, which oath shall be filed in the office of the secretary of state.

Frauds to be investigated. § 8. Whenever the state engineer and surveyor, or either of the canal commissioners, shall suspect any fraud or misconduct on the part of any engineer or assistant, in relation to the public works, it shall be his duty to report the same to the canal board, who may employ so many and such agents and engineers as they deem proper, to aid them in the investigation of the matter, and draw on the commissioners of the canal fund for their compensation, and the expenses of such investigation.

Embankments, excavations, masonry, etc., to be ascertained before contracts are made. § 9. Before any work is contracted upon any of the public works of this state, the quantity of embankment, excavation, masonry and all other structures, and the quantity and quality of all materials to be used in such work or structure, shall be ascertained and determined with all practicable accuracy, and the work shall be done according to the plans and specifications exhibited at the letting of the contracts, and no alterations shall be made therein, except by the consent and approval of the commissioner in charge of the division upon which such work is located, nor unless such alteration and approval be reduced to writing, and signed by the parties making the same.

Maps, plans, etc., to be submitted. § 10. Before the canal commissioners shall contract for any work that may hereafter be authorized by law, the maps, plans, profiles and estimates thereof, shall be submitted to the state engineer and surveyor, who shall report to said commissioners his opinion thereon.

Salary of state engineer and surveyor. § 11. There* be allowed and paid to the state engineer and surveyor, an annual salary of two thousand and five hundred dollars, to be paid out of the canal fund quarterly, to commence on the first day of January, eighteen hundred and forty-eight, besides travel fees, at the same rate as those allowed each of the canal commissioners, but such travel fees shall not exceed two hundred dollars in any one year.

Repeal. § 12. So much of all laws and parts of laws as conflict with the provisions of this act, or authorise the appointment or employment of any of the officers or persons whose appointment is hereinbefore provided for in any other manner than according to the provisions of this act, are hereby repealed.

* So in original.

L. 1857, Chap. 633 — An act to repeal the act entitled "An act to establish a board of railroad commissioners, and define their powers and duties," passed April fourteenth, eighteen hundred and fifty-five, and to authorize the appointment of a deputy by the state engineer and surveyor.

Act repealed. SECTION 1. The act entitled "An act to establish a board of railroad commissioners and to define their powers and duties," passed April fourteenth, eighteen hundred and fifty-five, is hereby repealed. Nothing in this bill contained shall exempt the various railroad corporations from the liabilities and expenses heretofore incurred in the execution of the duties pertaining to the office of railroad commissioners, but the comptroller shall levy and collect the same in the manner prescribed by statute for the payment of such expenses.

Final report of commissioner; transfer of office. § 2. It shall be the duty of the railroad commissioner appointed by the governor and senate, under the provisions of the act aforesaid to prepare for publication the annual report required by said act for the fiscal year ending September thirtieth, eighteen hundred and fifty-six, and to superintend the printing of the same. When the said report shall be printed it shall be the duty of the said commissioner to transfer to the office of the state engineer and surveyor all the property, maps and papers now belonging to or on file in the office of the board of railroad commissioners. The said commissioner shall receive for his services in preparing and superintending the printing of said report, the compensation fixed in the act hereby repealed; but the whole amount to be paid therefor shall not exceed one quarter of the yearly salary and traveling expenses as therein specified. The said commissioner may also employ the requisite number of clerks to make up the tabulations and deductions required by law for said annual report, and the amount to be paid to the clerks thus employed shall not exceed in the aggregate the sum of seven hundred dollars. The compensation of the commissioner and clerks aforesaid shall be paid in the same manner as is now provided in chapter five hundred and twenty-six of laws of eighteen hundred and fifty-five.

Deputy state engineer. § 3. The state engineer and surveyor is hereby authorized to appoint a deputy, who may perform any of the duties of state engineer and surveyor, except as commissioner, trustee, or member of any board, and who shall receive for his services a salary at the rate of two thousand dollars per annum

L. 1878. Chap. 18 — An act in relation to field books, surveys, maps, official papers, reports, and records, in the office of the state engineer and surveyor.

Copies of field books, etc., to be evidence. SECTION 1. Copies of all official field books, maps, surveys, records, reports and papers filed or deposited according to law, in the office of the state engineer and surveyor, when certified by the state engineer and surveyor, or his deputy in the form of and pursuant to law, shall, in all cases, be evidence, equally and in like manner, as the originals.

Seal; certificates to be sealed. § 2. The state engineer and surveyor, with the approval of the governor, shall devise a seal of office, with suitable inscription, a description of which, with a certificate of approval by the governor, shall be file in the office of the secretary of state, with an impression thereof, which seal shall thereupon be and become the seal of office of the state engineer and surveyor, and the same may be renewed when necessary. Whenever and from the time that such description and impression of seal are filed in the office of the secretary of state, all certificates of the sale of state lands, all copies of maps, surveys, field books, official papers, reports or records, certified by the state engineer and surveyor or his deputy shall be sealed with said seal of office.

TITLE VII.

Of the State Printer.

[Repealed by L. 1880, ch. 245.]

TITLE VIII.

Provisions relating to two or more of the Executive Officers.

- SEC. 1. Executive officers may administer oaths, and when.
2. Who may extinguish claims on lands sold by state.
3. Comptroller, etc., may file certificates of invalid sales for quit-rents.
4. Comptroller thereupon to cancel the sale.
5. From what fund the monies are to be refunded.
6. Comptroller and attorney-general may release lands from judgments in favor of state.
7. Attorney-general, with consent of comptroller, may pay off incumbrances upon lands mortgaged to state.
8. When lands mortgaged to state are sold under a judgment obtained prior to mortgage, attorney-general may redeem.
9. Attorney-general or comptroller may acknowledge satisfaction of judgments in favor of state.
10. When lands are sold for debts due the state, the surplus after paying amount due, etc., to be paid to person entitled.
11. When on such sale, lands are bought for the benefit of the state, how debtor is to be credited; and when entitled to surplus money.
12. Attorney-general to decide upon conflicting claims to such surplus.
13. Comptroller, with advice of governor, to dispose of bank stock owned by state.
14. What state officers to attend legislature, and report upon matters referred to them.
15. Secretary, comptroller and surveyor-general, to file quarterly accounts of receipts with treasurer.
16. How comptroller, etc., may seal papers.
17. Certified copies of papers in the office of comptroller and surveyor-general, evidence.
18. What duties deputy secretary and deputy comptroller to perform.
19. Offices of secretary, comptroller, treasurer, attorney-general and surveyor-general to be kept in the public building in Albany.

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SECTION I. Whenever the governor, the secretary of state, the comptroller, the deputy comptroller, the treasurer, the attorney-general, and the surveyor-general, shall either of them legally require proof, by affidavit, in any matter belonging to his office, the officer requiring the proof may administer the necessary oath.

Officers may administer certain oaths. 105 N. Y., 309.

[1. R. L., 482, § 2; L. 1824, 342, § 6.]

§ 2. The comptroller, the attorney-general, and the surveyor-general, or any two of them, with the consent and approbation of the governor, may, from time to time, extinguish all legal claims on lands sold under the authority of this state, or granted, for a valuable consideration, under its authority. The moneys required for such purposes, shall be paid out of the treasury; and in no case shall the sum paid for the extinguishment of any such claim, exceed the principal moneys, with interest thereon at the rate of six per

Extinguishment of claims.

TITLE 8. cent. per annum, for which the lands, to which the claim relates, shall have been sold by the state.

[1 R. L., 294, § 7.]

Sales for quit-rents, if invalid.

§ 3. Whenever it shall appear to the comptroller, the attorney-general and the surveyor-general, or any two of them, that any sales of lands, for arrears of quit-rents, have been improperly made, or that such sales cannot, for any reason, be effectual, it shall be the duty of the officers so acting, or of any two of them, to subscribe a certificate of the fact, and of the reasons why, in their judgments, such sales were improper, or why they cannot be effectual, and to file the same in the office of the comptroller.

[L. 1828, ch. 297, passed April 21, 1828; L. 1826, 327, §§ 2 and 3.]

May be cancelled.

§ 4. Upon the filing of such certificate in his office, it shall be lawful for the comptroller to cancel such sales on his books, and to refund to the purchasers, their heirs or assigns, the amount of the consideration money paid, together with interest, at the rate of six per cent. per annum, from the time of such payment until such sale is vacated, not exceeding six years in the whole.

[L. 1826, 327, §§ 2 and 3.]

Money, how refunded.

§ 5. Whenever such repayment shall be made, and whenever monies shall be refunded by the comptroller, for payments erroneously made into the treasury, on account of quit-rents, the one equal moiety thereof shall be paid out of the common school fund, and the other moiety out of the literature fund.

[L. 1826, 327, §§ 2 and 3.]

[1866]
Release of land bound by a judgment.

§ 6. The comptroller, with the consent of the attorney-general, if they shall be satisfied that the interests of the state will not be prejudiced, may release any portion of a real estate, subject to a judgment in favor of the people of this state, from the lien created by such judgment.

[L. 1819, 317, § 6.]

Prior mortgages, when to be paid.

§ 7. Where the attorney-general shall ascertain that lands mortgaged to the people of this state, are incumbered by prior judgments or mortgages, he may, with the advice and consent of the comptroller, discharge such prior incumbrances, and take an assignment thereof to the people of this state; and all sums of money required for such purpose, shall be paid to him out of the treasury.

[L. 1817, 6, § 3.]

Mortgaged lands, when to be redeemed.

§ 8. Whenever any lands which shall have been mortgaged to the people of this state, or purchased for the people on the foreclosure of a mortgage, shall be sold on execution, by virtue of a judgment recovered prior to such mortgage, the attorney-general, with the advice and consent of the comptroller, may redeem such lands, in the same manner as judgment creditors are authorised by law to redeem.

[L. 1822, 125, § 2.]

Satisfaction of judgments to state.

§ 9. The attorney-general and comptroller, or either of them, may acknowledge satisfaction of any judgment in favor of the people of this state, when the same shall have been settled or discharged,

either by payment, or by legislative provision; and the clerk of the court in which the judgment was docketed, shall, on filing a satisfaction-piece, acknowledged by them, or either of them, enter satisfaction of record. TITLE 8.

[1 R. L., 269, § 1; L. 1822, p. 126, § 3.]

§ 10. Whenever any premises mortgaged to the people of this state, or any lot or tract of land, purchased in for the benefit of the state, or for which a certificate shall have been given to a former purchaser, shall be sold by the attorney-general, on a foreclosure by notice, or under a decree, or shall be resold by the surveyor-general, for a greater sum than the amount due to the state, with the costs and expenses of such foreclosure or resale, the surplus monies received into the treasury, after a conveyance shall have been executed to the purchaser, shall be paid to the person legally entitled to such land, at the time of the said foreclosure, or at the time of the forfeiture of such original contract; but the comptroller shall not draw his warrant for such surplus money, unless upon satisfactory proof, by affidavit, or otherwise, of the legal right of the person in whose favor such warrant shall be applied for.

Surplus monies on sale of land for monies due the state.

[Sections 10 and 11 were repealed by L. 1831, ch. 320, § 17, which section 17 was in its turn repealed by L. 1834, ch. 284, whereby §§ 10 and 11 of the R. S. were revived.]

§ 11. Whenever any lands or tenements shall have been purchased, or shall hereafter be purchased, by the attorney-general, in behalf of this state, on the foreclosure of any mortgage, and such lands or tenements shall be sold, or shall heretofore have been sold by the commissioners of the land-office, for a greater sum than the amount bid by the attorney-general on such sale, it shall be the duty of the comptroller to give credit to the mortgagor, on his bond, for the amount at which the said lands and tenements shall have been sold, or shall be sold, after deducting therefrom all the costs, charges and expenses of such sale; and if such lands and tenements have been sold, or shall be sold, for an amount greater than is due to the people of this state from such mortgagor, or if such mortgagor shall have paid into the treasury the balance due on his mortgage, after such purchase by the attorney-general, and if on the sale thereof by the commissioners of the land-office, there shall be any excess over and above the amount due to this state, and the costs and expenses of such foreclosure, purchase and sale, it shall be the duty of the comptroller to refund to the mortgagor, his assignee, or the person entitled thereto, such excess.

If lands on such sale are bought for state, debtor to be credited, &c.

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[See note to the last section.]

§ 12. It shall be the duty of the comptroller, where interfering claims to such surplus monies shall be made, to refer such claims to the attorney-general, whose decision as to the rights of the respective claimants, shall be final and conclusive as to any claim against the state.

Interfering claims to surplus.

[L. 1824. 303, § 2.]

§ 13. The comptroller, by and with the advice of the governor, may, from time to time, dispose of any of the bank stock belonging

Bank stock.

TITLE 8. to the state, and apply the proceeds to the credit of the treasury, or invest them in other stocks, as may be judged most expedient.

[L. 1818, 306, § 15.]

Officers to attend legislature.

§ 14. It shall be the duty of the secretary of state, the comptroller, the treasurer, the attorney-general, and the surveyor-general, to attend the legislature during their session; and to report on all matters referred to them by the legislature, or by either house.

Quarterly account of fees.

§ 15. The secretary of state, the comptroller, and the surveyor-general, shall, on the first days of January, April, July, and October, in each year, file with the treasurer, an account in writing, of all fees by them respectively received, during the preceding quarter, and pay the amount thereof into the treasury.

[2 R. L., 29; 1 R. L., 527, § 1; 530, § 7.]

Seals to official papers.

§ 16. In all conveyances and other writings, executed by the comptroller, under his seal of office, and upon all commissions issued, and certificates granted by the secretary of state or the adjutant-general, it shall be lawful to affix the proper seal, by making an impression directly on the paper, which shall be as valid as if made on a wafer, or on wax.

[L. 1822, 285, § 7.]

Copies of papers when evidence
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§ 17. Copies of papers deposited or filed in the offices of the comptroller and surveyor-general, certified by the officer in whose office they are deposited, shall, in all cases, be evidence equally and in like manner as the originals.

Deputy secretary and deputy comptroller.

§ 18. The deputy-secretary of state, and the deputy-comptroller, shall each of them perform all the duties attached by law to the office of his principal, during an absence of such principal from the state, or a vacancy in his office.

[L. 1823, 19.]

Offices where kept.

§ 19. The offices of the secretary of state, comptroller, treasurer, attorney-general, and surveyor-general, shall be kept in the state-hall, in the city of Albany.

[1 R. L., 472, § 2.]

L. 1842, Chap. 310 — An act to regulate purchases for the state and the taking of vouchers.

Purchases and work for the state to be for cash. SECTION 1. All purchases for the use of any department, office, or work of the government, shall be for cash, and not on credit or time. Each voucher, whether for a purchase or for a service, or other charge, shall be filled up at the time it is taken; and in all cases where the payment is not made directly by the treasurer, or governor, proof in some apt form shall be furnished on oath, that it was so filled up at the time it was taken, and that the money mentioned therein to have been paid, was in fact paid in cash, or by draft on some specified bank. The auditor, in all cases when moneys are paid from the canal revenues, loans or fund, and the comptroller in all cases when payments are made from any other revenue or fund, shall from time to time prescribe rules, regulations and forms to secure the faithful observance of this section, and may, in all cases if they shall deem it necessary, require proof on oath of the payment of the money as aforesaid. [*Thus amended by L. 1855, ch. 535, § 3.*]

[Secs. 2 and 3 are on p. 481, ante.]

L. 1847, Chap. 350—An act in relation to reports of state officers.

Reports, when to be made. SECTION 1. The comptroller, the commissioners of the canal fund, the canal commissioners, the superintendent of common schools and the treasurer, are hereby required to complete their several annual reports for the previous fiscal year, before the expiration of the current calendar year, and cause the same to be presented to the legislature immediately after the commencement of its next annual session.

What reports to contain. § 2. The several officers mentioned in the first section of this act, are also required to embrace in said annual reports a true account, so far as the same is practicable, of the funds and accounts of which each of said officers is in charge, to the termination of the current calendar year.

L. 1851, Chap. 488—An act respecting the powers and duties of state officers and proceedings against them.

No injunction against state officers. SECTION 1. Whenever any duty shall be devolved by law of this state, upon any state officer, or board of officers, no injunction shall be issued to restrain such officer, or board, or any person employed by them, or to prevent the execution of any such law, unless the same be granted by the supreme court sitting in the district in which such board shall be located, or such duty shall be required to be performed, at a general term of said court.

Notice of application for injunction. § 2. Before hearing any application for an injunction in the cases specified in the preceding section, at least eight days' notice of the time and place of such hearing shall be served on the officer, board, or person against whom the application shall be made;* and in case of the inability or omission of the attorney-general to appear and defend such officer, board, or person, the governor may employ counsel to perform such duty in place of the attorney-general, and to institute any appeal or other necessary proceeding, who shall have the control of such defence or proceeding, and the governor may in his discretion employ counsel to assist the attorney-general in defending such officer, board, person or proceeding.

[All this statute, except the portion following the asterisk, was repealed by L. 1877, ch. 417. But the repealed portion is necessary to render the remainder intelligible, and it is therefore retained.]

L. 1859, Chap. 437—An act in relation to reports of state officers.

[Superseded, *semble*, by L. 1886, ch. 588, *ante*, p. 487, and repealed by the general provision in § 12.]

L. 1878, Chap. 301—An act to authorize the attorney-general, the superintendent of public works, the superintendent of state prisons, and state treasurer to have official seals.

Official seals. SECTION 1. The attorney-general, the superintendent of public works, the superintendent of state prisons and state treasurer are each hereby authorized to adopt and procure an official seal, with suitable devices and inscription. A description of such seal, with an impression thereof and a certificate of approval of the same by the governor, shall be filed as required by law in the office of the secretary of state, and from the date of such filing shall be the official seal of the respective offices so adopting them, and may be renewed when necessary.

L. 1881, Chap. 120 — An act concerning certain records in the office of the secretary of state and of the comptroller.

Records transferred to care of trustees of state library. SECTION 1. The following records, documents and files in the office of the secretary of state, shall be transferred to the care of the trustees of the state library, namely: One volume, entitled "Dongan's Laws;" two volumes of "Bills which failed to become laws from sixteen hundred and eighty-five to seventeen hundred and thirty-two;" one hundred and three volumes of colonial manuscripts (Dutch, English, and so forth); eighty volumes, containing copies of the historical documents procured abroad by an agent of the state; fifty volumes, containing various colonial orders in council, letters, council minutes and treasury warrants; forty volumes of marriage bonds; one volume "Indentures of Palatine Children;" two volumes of Indian traders' bonds; two volumes of original Dutch patents; one volume of minutes of the commissioners to settle the boundaries between Rhode Island and Massachusetts in seventeen hundred and forty-one; one volume of the minutes of the commissioners to re-examine the controversy between Connecticut and the Mohegan Indians in seventeen hundred and forty-three; one volume of evidence in vindication of the territorial rights of New York against the claim of the New England colonies in seventeen hundred and fifty; two volumes of papers relating to the Vermont controversy (seventeen hundred and seventy-seven to seventeen hundred and ninety-nine) forty-five volumes of revolutionary papers; fourteen volumes of Minutes of the Council of Appointment, seventeen hundred and seventy-seven to eighteen hundred and twenty-one; files relating to the proceedings of the Council of Appointment (unbound); five volumes of Minutes of the Council of Revision, seventeen hundred and seventy-seven to eighteen hundred and twenty-four; forty-three volumes of assembly papers, seventeen hundred and seventy-seven to eighteen hundred and thirty-one; four volumes of miscellaneous papers relating to the frontiers, Nevesink Navigation Company, Onondaga Salt Works, Canadian sympathizers, anti-rent, war, Douw Fonda claim, boundaries, Holland Land Company, and so forth; one volume entitled "Onondaga Claims;" four volumes relating to Onondaga springs, eighteen hundred and ten to eighteen hundred and twelve; files of election returns (unbound), eighteen hundred to eighteen hundred and thirty-seven, and such other manuscripts as the secretary of state may deem as of only historical interest, and desirable to be thus transferred to the care of the trustees of the state library.

Id. § 2. The following records, now in the office of the comptroller, shall in a like manner be transferred to the care of the said trustees, namely: Ten volumes of accounts of certificates issued by the treasurer of the state in the time of the revolution; three volumes of quarter-masters' accounts during the revolutionary war; one volume containing pay-rolls of revolutionary prisoners and state agents' certificates; one volume pay-roll of the New York line in seventeen hundred and eighty-one; thirty-three volumes of manifest books (New York custom house), seventeen hundred and thirty-seven to seventeen hundred and seventy-four; ten volumes of entry books, seventeen hundred and twenty-eight to seventeen hundred and sixty-nine; seven volumes of shipmasters' bonds, seventeen hundred and fifty to seventeen hundred and sixty-six; one volume of sales of property belonging to Beverly Robinson and other Tories, seventeen hundred and seventy-seven to seventeen hundred and seventy-nine; one volume of the counts of forfeited property taken in Westchester county, seventeen hundred and eighty-two; and such other records as the comptroller may deem advisable.

Certified copies to be evidence. § 3. A copy of any of the above documents and records, certified under the hand of the secretary and the seal of the board of regents of the university of the state of New York, may be read in evidence in all courts and places within this state, with the same force and effect as the original.

Keeper of records. § 4. The trustees of the state library, on receiving the above enumerated records, shall have power and are hereby directed, from time to time,

to appoint a suitable person to take charge of the records, and make copies, when desired, as the same has heretofore been appointed by the secretary of state.

L. 1888, Chap. 326 — An act to require public officials and other persons receiving and disbursing moneys of the people of the state of New York, to deposit the same in solvent banks, and to require banks receiving such moneys on deposit to execute and give bonds as security therefor.

Public officers to keep funds deposited in bank, etc. SECTION 1. All officials of the state of New York, and other persons receiving and disbursing moneys belonging to the people of said state for public purposes, shall be and are required to deposit and keep, all such moneys received by them, deposited to their official credit in some responsible bank, or banks or banking house, to be designated by the comptroller of said state, until said moneys shall be paid out and disbursed according to law.

When depositary to give security therefor. § 2. Every bank or banking house that has received or shall receive on deposit any moneys belonging to the people of the state of New York shall, when so required to do by the comptroller, execute, deliver and file in the office of the comptroller of said state at the city of Albany, a bond or undertaking to the people of said state, in such sum and with such sufficient guarantee and sureties as shall be required and approved by said comptroller, for the safe keeping and prompt payment upon legal demand therefor, of all such moneys held by or on deposit in such bank, with interest thereon upon daily or monthly balances, and at such rate as the said comptroller shall fix and approve.

Bonds to be approved. § 3. All bonds, undertakings, guarantees and covenants or agreements of sureties, hereafter executed or given by or in behalf of any bank or banking house to the people of the state of New York, shall be approved as to form by the attorney-general indorsed thereon or annexed thereto.

Effect of this act; not applicable to state treasurer. § 4. The foregoing provisions of this act are in addition to and shall not be construed as in conflict with, or to change, any special or other general laws requiring bonds to be given by any public officials of this state, or any banks receiving on deposit moneys belonging to the people of this state, nor shall it apply to the treasurer of said state.

[Supplementary Title.]

TITLE 8^a.

Of the Superintendent of State Prisons; the Superintendent of Public Works; and the Inspector of Public Works; and their Powers and Duties.

L. 1877, Chap. 24 — An act in relation to the superintendent of state prisons.

Salary. SECTION 1. The superintendent of state prisons shall receive an annual salary of six thousand dollars, payable quarterly by the treasurer, on the warrant of the comptroller, and in addition thereto all reasonable and necessary travelling expenses by him actually incurred and paid in the discharge of his official duties, not exceeding the sum of one thousand dollars per annum, and a further sum of one thousand dollars per annum, or so much thereof as may be necessary for clerk hire, of all of which expenses he shall keep an account by items, and verify the same by his oath, to be filed with the comptroller.

To take and file oath; to give bond. § 2. Within ten days from the time of notice of his appointment the superintendent shall take and subscribe the oath of office

prescribed by the Constitution, and file the same in the office of the secretary of state, and shall be in all respects subject to the provisions of the sixth title of chapter five of the first part of the Revised Statutes, as far as the same may be applicable, and within such ten days he shall give to the people of the state of New York a bond in the penal sum of twenty-five thousand dollars, with two good sureties, to be approved by the comptroller, conditioned for the faithful discharge of the duties of his office.

Rules for appointment. § 3. No appointment shall be made in any of the prisons of this state on grounds of political partisanship; but honesty, capacity and adaptation shall constitute the rule for appointments, and any violation of this rule, shall be sufficient cause for removal from office of the superintendent.

[For additional provisions applicable to the superintendent of state prisons, see part IV, *post.*]

L. 1875, Chap. 227 — An act creating the office of inspector of public works.

Inspector of public works; term of office. SECTION 1. There shall be an officer known as inspector of public works, who shall be appointed by the governor and may be removed by him at pleasure. Unless he is sooner removed, he shall hold his office for and during the term of the governor by whom he is appointed.

Duties. § 2. It shall be the duty of such officer to inspect all works being carried on by or on account of the state, or in which the state shall be interested, and he shall report to the governor upon all matters pertaining to his office, as often as he shall be called upon by the governor so to do, and said report, when so made, shall be filed in the executive department and auditor's office subject to inspection by any person who may desire to examine the same.

Powers. § 3. Such officer shall have power to inspect all such works, and to examine any book, account or paper relating thereto in the custody of any public officer or board.

May require attendance of witnesses. § 4. Such officer may require the attendance of any witness before him to be examined in relation to said works, whenever in the opinion of the governor the interest of the state requires it, and shall have power to take testimony and administer oaths; and any wilful false swearing before such officer is hereby declared to be perjury; and for the purpose of compelling the attendance of witnesses before him, such inspector may issue subpoenas to be signed by him, which shall be served by any sheriff or constable by said officer thereunto required. Any person duly subpoenaed to attend before such officer, who shall wilfully neglect to obey such subpoena shall forfeit to the people of this state the sum of two hundred and fifty dollars, and shall also be deemed guilty of a misdemeanor. Such examination shall be public.

Compensation; report. § 5. Such officer shall receive an annual compensation of five thousand dollars, payable in monthly instalments out of the state treasury. He shall also be entitled to be paid his reasonable expenses actually incurred for clerk-hire, compensation of experts, fees of witnesses, and other incidental matters in the discharge of his duties, the account thereof to be verified by his oath and audited by the comptroller, the objects and amounts being subject to the approval, in writing, of the governor and comptroller. And such inspector shall make full report of his proceedings, to the legislature, on or before the fifteenth day of January of each year.

L. 1877, Chap. 85 — An act in relation to the superintendent of public works.

Salary and expenses; oath; bond; members of canal board. SECTION 1. The superintendent of public works, to be appointed by the governor, by and with the advice

and consent of the senate, shall receive a salary of six thousand dollars per annum, together with all travelling expenses necessarily and actually incurred, to be audited, allowed and paid monthly by the auditor of the canal department. Before he shall enter upon the duties of his office, he shall take and subscribe the constitutional oath of office and file the same in the office of the secretary of state, and shall execute a bond to the people of this state, in the penal sum of fifty thousand dollars, with two or more substantial freeholders of this state as sureties, who shall, in the aggregate, justify in double the amount of the penalty of said bond, conditioned for the faithful discharge of the duties of his office and for truly accounting for all moneys intrusted to him as such superintendent, which bond shall be subject to the approval of the auditor, and when so approved shall be filed in the office of the auditor, and shall be renewed whenever and as often as the same shall be required by the governor. And said superintendent of public works, as a member of the canal board, shall be entitled to one vote only.

Assistant superintendents; salary; oath; bond. § 2. The assistant superintendent or superintendents to be appointed by the superintendent of public works shall each receive a salary of three thousand dollars per annum, together with all necessary travelling expenses, to be audited, allowed and paid monthly by the auditor of the canal department by his warrant upon the treasurer. Before either of them shall enter upon the duties of his office he shall take and subscribe the constitutional oath of office, and file the same in the office of the secretary of state, and shall execute a bond to the people of this state, in the penal sum of twenty thousand dollars, with two or more substantial freeholders of this state as sureties, who shall in the aggregate justify in double of the amount of the penalty of the bond, conditioned for the faithful discharge of the duties of his office, and for truly accounting for all moneys intrusted to him as such assistant superintendent, which bond shall be subject to the approval of the auditor, and when so approved shall be filed in the office of the auditor, and shall be renewed whenever and as often as the same shall be required by the superintendent of public works.

The office of superintendent of public works was created by the amendment to section 3 of article V of the Constitution, which went into effect January 1, 1877. This amended section of the Constitution defines generally his duties, and fixes the tenure of his office, the number of assistants to be appointed by him, etc. His duties relate almost exclusively to the canals, and the statutes relating thereto will be found in title 9 of chapter 9, *post.*]

L. 1887, Chap. 123—An act to provide for the appointment of a deputy in the office of the superintendent of public works.

Superintendent may appoint deputy; his powers duties and compensation; official bond.
SECTION 1. The superintendent of public works is hereby authorized to select from one of his clerks a deputy, to hold office during the pleasure of said superintendent of public works, and who may perform any of the duties of the office of said superintendent of public works, except those imposed upon him as a member of the canal board, and the signing of drafts on the comptroller. But the person so designated shall not receive any additional salary or compensation for the performance of such duties, and before he shall enter upon the duties hereby devolved upon him he shall execute a bond to the people of the state of New York in the penal sum of twenty-five thousand dollars with two or more substantial freeholders of this state as sureties who shall in the aggregate justify in double the amount of the penalty of said bond conditioned for the faithful performance of the duties of his office and for truly accounting for all moneys intrusted to him as such deputy superintendent which bond shall be subject to the approval of the comptroller and when so approved shall be filed in the office of the comptroller and shall be renewed whenever and so often as the same shall be required by the governor.

[Supplementary Title.]

TITLE 8^B.*Of the Board of Claims; and its Powers and Duties.*

[Those provisions of the former statutes, relating to the canal appraisers, which appeared to the editor to be applicable to the board of claims, have been retained in ch. IX, tit. 9, art. 3, *post*, and the statutes, passed since the R. S., appended thereto. It was deemed impracticable, without great inconvenience and a violation of the plan of this work, to transfer them to this supplementary title.]

L. 1883, Chap. 205 — An act to abolish the office of canal appraiser and the state board of audit, and to establish a board of claims and define its powers and duties.

Board of claims created; commissioners of claims, appointment of; term of office; compensation. SECTION 1. The governor, by and with the advice and consent of the senate, shall appoint three persons commissioners of claims who shall be citizens of this state, and of whom two, but not more, shall be practicing attorneys and counsellors of the supreme court; they shall constitute a board of claims. Said commissioners to be first appointed shall be appointed for the term of two, four and six years, respectively, from the first day of January next ensuing their appointment, and until their successors shall be appointed and have qualified, and shall enter upon the duties of their office on the first day of June, eighteen hundred and eighty-three. Two of said commissioners shall constitute a quorum for the transaction of business; the commissioner having the shortest time to serve and who is a counsellor of the supreme court shall act as presiding officer of the board. Whenever the term of office of any commissioner of claims shall expire, the governor in like manner shall appoint a successor for the full term of six years. When a vacancy in the office shall occur before the expiration of its term, the same shall be filled for the unexpired term by appointment by the governor, by and with the advice and consent of the senate, if the senate shall be in session, or if not in session, the governor may appoint some suitable person to fill such vacancy until the first day of January next succeeding such appointment, and the remainder of the unexpired term shall be filled in like manner as if such vacancy had occurred during the session of the senate. The governor may remove any commissioner of claims within the term for which he shall have been appointed, but before removing him he shall give to such officer a copy of the charges against him and an opportunity of being heard in his defense. Each of said commissioners shall take and subscribe the oath of office required by the constitution and file the same in the office of the secretary of state, and shall receive a compensation of five thousand dollars per annum, payable quarterly, and his necessary expenses, not exceeding five hundred dollars per annum for each commissioner. The persons appointed under this act to fill vacancies shall possess the same qualifications as the commissioner whose place such person is appointed to fill.

Clerk; stenographer; marshal; appointment, duties, salaries, etc. § 2. The board of commissioners shall appoint, and at pleasure may remove, a clerk, a stenographer, and a marshal who shall also act as and perform all the duties of a messenger, each of whom, before entering upon the duties of his office, shall take the oath of office required by the constitution, and file the same in the office of the secretary of state; they shall perform their duties under the direction of the board. The clerk, under the direction of the board, shall disburse the fund which from time to time may be appropriated for the use of said board, and before entering upon the duties of his office, he shall make and file in the office of the comptroller a bond for the faithful performance of his duties, in an amount and with sufficient sureties to be approved by the board, which approval shall be endorsed on said bond. The clerk shall receive an annual salary of three thousand dollars, in lieu of all fees except for copies of papers. The stenographer shall receive an annual salary of fifteen hundred dollars, and five cents a folio for copies of minutes and testimony

furnished at the request of the claimant; but no charge shall be made against the state by the clerk or stenographer for copies of minutes, testimony or papers furnished the attorney-general, or the board of commissioners, or filed in the office of the clerk. The stenographer shall file with the clerk a copy of the minutes and testimony taken in each claim heard by the board. The marshal shall receive for his services as such, and including his services and duties as messenger, the annual salary of eight hundred dollars; and the clerk, stenographer and marshal shall each receive actual expenses while in the discharge of their respective duties at other places than the city of Albany. Said salaries shall be paid monthly. [*Thus amended by L. 1888, ch. 365, superseding L. 1884, ch. 60.*]¹

Powers to administer oaths, regulate proceedings, take testimony, etc.; contempt; subpoenas; commissions; process generally; contingent fund; report thereon. § 3. Each of said commissioners and the clerk of said board shall have the power to administer oaths, and said board shall have authority to establish rules for its government; and the forms and methods of procedure before it; and in its discretion, and in furtherance of justice, to allow amendments to claims, and the filing of amended and supplemental claims, in like manner as amendments in pleadings and amended and supplemental pleadings are allowed to be made and filed in the supreme court; in its discretion, and upon sufficient cause shown, and in furtherance of justice, to open the hearing of claims and permit further proofs and testimony to be given therein; and to direct the rehearing of claims heard before it; to issue and direct the issue of subpoenas to witnesses to appear and testify, and for the production of books and papers; to compel obedience to such subpoenas by attachment, to punish for contempt in like cases and in like manner as the supreme court; to order and hold such special sessions at such times and places in the state as it may determine; to issue to the marshal of said board any process of said board in proceedings to compel obedience to subpoenas by attachment, and to punish for contempt; and said marshal shall execute all such process and have and possess all the power and authority in relation hereto now possessed by the sheriffs of the respective counties of this state in respect to process in proceedings to compel obedience to subpoenas and to punish for contempt issued by or from the supreme court, or any justice thereof; to issue commissions to take testimony within or without the state, to be used before it, in like cases and in like manner as the supreme court issues such commissions. When testimony is taken on commission, at the instance of the claimant, the fees of the commissioner before whom it is taken, and the expense of the commission shall be paid by the claimant; and when taken at the instance of the state, such commissioner's fees, together with all expense incurred by the attorney-general in his official capacity therein, and in the performance by him of any of the duties required to be performed by him by chapter two hundred and five of the laws of eighteen hundred and eighty-three and any amendments thereof, shall be paid by said board out of the contingent fund of said board annually appropriated for its use. Said board shall allow and pay out of its contingent fund for services rendered and performed in the preservation, care, custody, examination and search of the records documents, papers and maps of the late board of canal appraisers from the time of the abolishment of the office of canal appraiser until said records, documents, papers and maps were by law deposited in and made a part of the records of the office of the clerk of the said board of claims. On the first day of January in each year, the clerk shall report, under oath, to the comptroller, a detailed statement of his receipts, and of his disbursements made under the direction of the board, of its contingent fund, for the preceding year. [*Thus amended by L. 1888, ch. 365.*]

Sessions; duty of sheriff. § 4. The said board shall hold at least four sessions in each year in the city of Albany, commencing, respectively, on the second Tuesday of January, April, September and November, and shall continue each session so long as may be necessary for the disposition of business, and it may hold adjourned sessions at such other times and places in the state as the board may determine

¹ See L. 1884, ch. 334, *post*, p. 542.

necessary and proper. The sheriff of any county other than the county of Albany, on notice from said board, shall furnish suitable rooms in the court-house of his county for any session or adjourned session of said board, and shall in person or by deputy, if required by said board, attend said session or adjourned session, and his fees for attendance shall be paid out of the contingent fund of said board, at the same rate as for attending a term of the supreme court in said county. [*Thus amended by L. 1884, ch. 60.*]

Duty of attorney-general and superintendent of public works. § 5. The attorney-general, in person or by deputy, shall attend each session of said board on behalf of the state; shall prepare all cases on the part of the state for hearing, and argue the same when prepared; shall cause testimony to be taken when necessary to secure the interest of the state; shall prepare forms, file interrogatories and superintend the taking of testimony in the manner prescribed by said board; and generally shall render such services as may be necessary to further the interest of the state in all cases before said board, and in the court of appeals, on appeal from the final order and awards of said board. It shall not be necessary for the attorney-general, on the part of the state, to file with the board answers or other pleadings to claims, filed (except where a claim in favor of the state exists against a claimant or claimants in the nature of a counter-claim) but all allegations contained in said claims shall be deemed denied on the part of the state; in claims in which a special defense or defenses thereto is or are deemed, by the attorney-general, to exist on the part of the state, he may file an answer setting forth the nature of such defense. In all cases of claims before said board of which the canal appraisers have heretofore had jurisdiction, the superintendent of public works, on request from the attorney-general, shall furnish him such assistance as he may require to subpoena witnesses and prepare the cases for trial on the part of the state. [*Thus amended by L. 1888, ch. 365.*]

Record of proceedings; seal; evidence. § 6. Said board shall keep a record of its proceedings, and at the commencement of each session of the legislature, and at such other times during each session of the legislature as it may deem proper, or as the senate or assembly may request, report to the legislature the claims upon which it has finally acted, with the statement of the award made in each case. Said board shall have and use a seal, which shall conform as to the device thereon, and the size thereof, to the requirements contained in the provisions of chapter one hundred and ninety of the laws of eighteen hundred and eighty-two. The copy of any record, order, award or other paper certified by the clerk of said board, under the seal of said board, shall be entitled to be read in evidence, in any and all courts, and before any and all officers, with the same force and effect as papers certified under the seal of the supreme court, by a clerk thereof. Said seal shall be procured for said board by its clerk, and kept in the office of said clerk. [*Thus amended by L. 1884, ch. 60.*]

Jurisdiction. § 7. Said board shall have jurisdiction to hear, audit and determine all private claims against the state which shall have accrued within two years prior to the time when such claim is filed, except claims barred by any existing statute, and to allow thereon such sums as should be paid by the state. Such board, however, shall have jurisdiction of such claims as were formerly cognizable by the state board of audit,¹ provided that they shall be filed on or before July first, eighteen hundred and eighty-four, and shall not have accrued more than six years prior to such filing. It shall also have jurisdiction of all claims, on the part of the state, against any person making a claim against the state before said board, and shall determine such claim or demand, both on the part of the state and the claimant; and if it finds that the demand of the state exceeds the demand of the claimant, it shall award such excess in favor of the state against the claimant. [*Thus amended by L. 1884, ch. 60.*]

26 Hun, 581; 96 N. Y., 71; 99 N. Y., 101, 491; 105 N. Y., 229.

¹ By L. 1876, ch. 444, § 2, as amended by L. 1881, ch. 211, the state board of audit had power "to hear all private claims and accounts against the state, except such as are now heard by the canal appraisers, according to law."

Awards. § 8. On the termination of a hearing before the board of claims, the commissioners, or any two of them, shall make and assign the award of the board, which shall contain the names of the persons interested, the names of the attorneys, if any, who appeared for the claimant, or by whom the claim was made, the amount allowed the claimant, if any, and if it be a case where the state seeks to appropriate or has appropriated lands for public use, a description by metes and bounds of the land appropriated and for which the award is made, and what amount, if any, the board has deducted from the claim for claims of the state against the claimant, or payments, an entry of which shall be made in detail by the clerk of said board in the book kept by him for that purpose, which entry shall be signed by the commissioners making such award.

26 Hun, 581; 89 N. Y., 52.

Books, entries to be made in, etc.; final award in favor of state to be conclusive. § 9. Books shall be kept in the office of the clerk of said board in which the orders and awards of said board shall be entered by the clerk of said board, and each of said awards shall be entered by him in detail; and he shall attach all the papers in any one claim, with a copy of the testimony and certified copies of all orders therein, to a certified copy of the final order or award, and file the same in his office. Any such final order or award in favor of the state shall be final and conclusive as between the state and the claimant, and the state may sue for and enforce collection of the same in any court having jurisdiction. The attorney-general shall take such proceedings as may be necessary to enforce any such order or award in favor of the state. [*Thus amended by L. 1884, ch. 60.*]

Appeals, when and how taken; proceedings thereon. § 10. When the amount in controversy exceeds five hundred dollars, either party feeling aggrieved by the final award or final order of the board may appeal to the court of appeals, upon questions of law only, arising upon the hearing of the claim or upon the excess or insufficiency of such award or order. The court of appeals shall hear such appeal, and affirm, reverse or modify such award or order, or dismiss such appeal, or award a new hearing before the board of claims, as justice may require. Every appeal shall be in writing, stating briefly the grounds upon which it is taken, and subscribed by the party or his attorney. A copy of such notice of appeal shall be served upon the clerk of the board and upon the attorney-general. When the appeal is taken by the state copies of such notice of appeal shall be served upon the clerk of the board and the claimant, or the attorney appearing for him. Service of notice of appeal shall be made in like manner as in supreme court. The appeal must be taken within thirty days after service of notice of the final award or order of the board. The party taking an appeal shall, at or before the time of serving the notice thereof, unless said board, or a commissioner thereof, shall extend the time, make and serve upon the attorney-general, or, if the appeal is taken by the state, upon the claimant or the attorney appearing for him on the hearing before the board, a case containing so much of the evidence given before the board as may be necessary to present the questions raised by the notice of appeal; the respondent may propose amendments, and one of the commissioners before whom the claim was heard shall settle the same and sign the case so settled. Such appeals brought after making up the annual calendar of the court of appeals, or too late to be placed upon said calendar, may, if the attorney-general of the state shall deem it to the best interests of the state be put upon the calendar at any time and brought on for a hearing as preferred causes upon a notice of fourteen days; and it shall be the duty of the clerk of the court of appeals to place such causes on the calendar for the day for which they shall be noticed, or upon which the cause shall be ordered by the court or stipulated by the parties to be heard. And in case no appeal is taken from the decision of said board, as provided in this act, the decision of the board shall be final. [*Thus amended by L. 1887, ch. 507, superseding L. 1884, ch. 60, § 6.*]

28 Hun, 328; 29 Hun, 159.

¹ So in the original.

Questions to be considered on appeal; practice; rules of evidence, etc., to be observed. § 11. On the hearing before the court of appeals, only such questions shall be considered by the court as are raised by the notice of appeal. And on all questions not raised by the notice of appeal it shall be presumed that sufficient evidence was given on the hearing to sustain the order or award. The practice upon the hearing of appeals in the court of appeals, from the final order or award of the board, shall conform, as near as may be, to the practice prevailing upon appeals from the courts of record of this state. Upon the hearing of all claims before the board, the rules of evidence now prevailing in the courts of record of this state shall be observed, and the practice upon such hearings of claims and taking appeals from the final order or award made therein shall conform, as near as may be, to the practice now prevailing in the supreme court of this state upon the trial of actions, and upon appeals; but in no such appeal shall the appellant be required to give a bond or undertaking. [*Thus amended by L. 1884, ch. 60.*]

Office of canal appraiser and state board of audit abolished. § 12. On and after the thirty-first day of May, eighteen hundred and eighty-three, the office of canal appraiser and the state board of audit are abolished. All claims against the state then pending before the canal appraisers or before the state board of audit shall be and hereby are transferred to the board of claims. Said canal appraisers and said state board of audit are hereby directed to transmit to the clerk of the board of claims all papers, documents and evidence, in cases before either of said bodies pending and undetermined on the thirty-first day of May, eighteen hundred and eighty-three.

Jurisdiction to hear canal claims. § 13. All the jurisdiction and power to hear and determine claims against the state, formerly possessed by the canal appraisers and the state board of audit, is hereby vested in the board of claims. Whenever a claim against the state is pending before said board of claims, which the canal appraisers have heretofore had jurisdiction to hear and determine, the board shall take testimony in the vicinity where the damages are alleged to have occurred, and the premises alleged to have been damaged shall be personally viewed by said board, and said board shall hold an adjourned session in said vicinity for the purpose of hearing said claim. [*Thus amended by L. 1884, ch. 60.*]

Rooms to be assigned in the new capitol. § 14. Suitable rooms shall be assigned in the new capitol for the sessions of the board of claims, and for the office of the clerk. Said commissioners and clerk shall have the use of the books in the state library in the course of their official duties. The legislature shall annually appropriate such sum as shall be necessary, not exceeding five thousand dollars, as a contingent fund for the use of said board.

Costs, etc., not to be taxed. § 15. Costs, witness fees and disbursements shall not be taxed, nor shall counsel or attorney fees be allowed by said board to any party.

Effect of this act limited. § 16. Nothing in said chapter two hundred and five of the laws of eighteen hundred and eighty-three, as amended by chapter sixty of the laws of eighteen hundred and eighty-four, shall be deemed to give jurisdiction to said board of claims to hear, audit and determine any private claim against the state, hereafter filed, for the liquidation of which an appropriation has been made, and the comptroller by law is required to audit, and which the claimant has presented for the audit of said comptroller. [*Thus amended by L. 1888, ch. 365.*]

L. 1884, Chap. 334 — An act authorizing the commissioners of the board of claims to appoint a deputy clerk, and for other purposes.

May appoint deputy clerk. SECTION 1. The commissioners of the board of claims are hereby authorized and empowered to appoint, and at pleasure to remove, a deputy clerk. Said deputy clerk shall receive an annual salary of fifteen hundred dollars, to be paid monthly.

Stenographer not to act as such. § 2. So much of section two of chapter two hundred and five of the laws of eighteen hundred and eighty-three, and so much of section two of chapter sixty of the laws of eighteen hundred and eighty-four, as directs that the stenographer appointed by said commissioners of the board of claims shall act as deputy clerk, is hereby repealed.

[Section 3, temporary.]

L. 1884, Chap. 85—An act conferring jurisdiction upon the board of claims to hear, audit and determine certain private claims against the state of New York.

Exclusive jurisdiction to hear certain private claims. SECTION 1. Exclusive jurisdiction is hereby conferred upon the board of claims to hear, audit and determine all private claims against the state of New York, arising in any manner from and out of any and all acts and proceedings had, done and performed under chapter 134 of the laws of 1878, and chapter 306 of the laws of 1879, entitled respectively "An act in relation to infectious and contagious diseases of animals," provided said claims shall not have accrued more than six years prior to the filing of said claims, and to allow thereon such sums as should be paid by the state; anything contained in the aforesaid acts to the contrary notwithstanding.

Appeals. § 2. When the amount in controversy in any such claim shall exceed five hundred dollars, either party feeling aggrieved by the final order or final award of said board may appeal therefrom to the court of appeals in like manner as is provided for appeals from the final order or final award of said board, by chapter 205 of the laws of 1883, entitled "An act to abolish the office of canal appraiser and state board of audit, and to establish a board of claims and define its powers and duties," and the acts amendatory thereof. And the court of appeals shall hear such appeals in like manner as appeals from the final order and award of said board in other claims heard by it, as is provided in the act last above mentioned, and the acts amendatory thereof.

L. 1884, Chap. 329—An act in relation to cases for damages appealed from the late board of canal appraisers to the canal board, and now pending and undetermined by said board.

Appeals transferred to board of claims. SECTION 1. All appeals from decisions of the canal appraisers now pending and unheard before the canal board and such appeals hereafter taken are hereby transferred to and directed to be heard and determined by the board of claims, and said board of claims upon hearing of such appeal shall have the same power as to the affirmance, reversal or modification of such decisions or the granting of new trials therein as is now possessed by the canal board, and in case a new trial shall be granted on any of said appeals the said board of claims shall proceed to hear, try and determine the same according to the provisions of chapter two hundred and five of the laws of eighteen hundred and eighty-three. Either party shall have the same right of appeal to the court of appeals from any determination thereon by said board of claims as is provided in either cases by said act chapter two hundred and five of the laws of eighteen hundred and eighty-three.

Attorney-general to prepare appeals for argument, etc. § 2. The attorney-general, in person or by deputy, shall prepare said appeals for argument on the part of the state, and argue the same when prepared; and shall render such service as shall be necessary to further the interest of the state in all cases transferred by the provisions of this act to the board of claims, and in all appeals taken therein to the court of appeals.

L. 1884, Chap. 336—An act in relation to the appraisal of canal claims against the state.

Taking private lands, waters, etc., superintendent of public works to give notice to owner; recording notice; fees therefor; effect as evidence. SECTION 1. In the construction or improvement, hereafter, of any canal or feeder, whereby the superintendent of public works, or other authorized agent of this state, shall appropriate private lands, streams or waters, the said superintendent of public works, or other authorized agent of the state shall serve upon the owner, owners or occupants of said lands, streams or waters, a written or printed notice of such appropriation, duly signed by him, which notice shall contain an apt and sufficient description of the lands, streams or waters so appropriated, and the several county clerks of the counties of this state, wherein any of the lands, streams or waters so appropriated are situated, are authorized and directed upon the application of the said superintendent of public works, or other authorized agent of the state, to record a duplicate of said notice, with the affidavit of service thereof on the owner or occupant, in the books or records in said clerk's office, used for recording deeds; and the record of any such notice and of such proof of service, or a copy thereof, certified by the clerks of said counties where said notice is recorded as aforesaid, may be read in evidence in any of the courts of this state, or in the board of claims of this state, with like effect as if the original notice was produced and the proof given of said service; and the said county clerks shall be paid for recording such notice not to exceed the sum of ten cents per folio for each and every folio of one hundred words, and said notice, when so served and recorded, with proof of service thereof as aforesaid, shall be conclusive evidence of the appropriation of said lands, streams and waters, and of the quantities and boundaries thereof. Any notice of appropriation with description as aforesaid with proof of service thereof on the owner or occupant heretofore recorded in any county clerk's office as aforesaid, since the twenty-second day of May, eighteen hundred and eighty-four, at the request of said superintendent of public works, may be read in evidence in the like manner, and shall have the same force and effect in like cases, as if recorded under the provisions of this act as hereby amended. [*Thus amended by L. 1888, ch. 118.*]

Board of claims to audit claims for damages. § 2. The board of claims shall have jurisdiction to hear, audit and determine the claim of the owner or owners of such lands, streams or waters and to allow thereon such sums as should be paid by the state, provided such claim shall be filed within two years after the service of said written or printed notice, as provided in section one of this act.

When allowance to be made for expense of abstracts of title. § 3. The said board of claims, whenever the appraised value of the premises appropriated shall be less than two hundred dollars, shall in their award make a reasonable allowance for the expense of procuring the abstract of title and certificate of search as to incumbrances, which the statutes require shall be furnished the comptroller before payment of any damages which may be awarded for the permanent appropriation of land or water.

Repeal. § 4. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

L. 1885, Chap. 135—An act in relation to the care and custody of the records, documents, maps and papers of the late board of canal appraisers; and to provide that copies thereof may be certified and read in evidence.

Records, etc., to remain with clerk of board of claims. SECTION 1. The records, documents, maps and papers of, and filed with the late board of canal appraisers, now in the office of the clerk of the board of claims, and in the particular care and keeping of said clerk, shall be and remain in said clerk's office, as part of the records, documents, maps and papers of said office, and in the care and keeping of said clerk.

Copies, etc., certified by clerk, to be evidence. § 2. The copy or copies of any of the aforesaid records, documents, maps and papers on file as aforesaid, certified by the clerk of the said board of claims, under the seal of said board, shall be entitled to be read in evidence in any and all courts, and before any and all boards and officers, with the like force and effect, as records, documents and papers, certified under the seal of the supreme court, by a clerk thereof, or by any of the public officers and boards of this state, pursuant to the provisions of the code of civil procedure.

L. 1885, Chap. 355—An act to secure returns on appeals from awards made by the late board of canal appraisers.

Board of claims may cause an amended return to be made, etc. SECTION 1. Where it may appear, by affidavit or otherwise, in an appeal now pending from an award made by the late board of canal appraisers that the return is defective, the board of claims shall cause an amended return to be made, which shall form the record upon which such appeal shall be heard and decided. The board of claims, in furtherance of justice, may amend any claim in any return by adding or striking out the name of a person as a claimant, or by correcting a mistake in the name of a claimant, or a mistake in any other respect, or by inserting an allegation material to the claim, or in any other respect that said board in its judgment shall deem proper and necessary, or by conforming the claim to the facts proved where such amendment does not substantially change the claim. Where a return is so defective that the material facts upon which the board of canal appraisers acted cannot be ascertained therefrom, the board of claims shall order a new trial.

L. 1887, Chap. 36—An act in relation to the records, books, papers, decisions and files of the late state board of audit, and the care and custody thereof, and to provide that copies thereof may be certified and read in evidence.

Certain records to be transferred to board of claims. SECTION 1. The secretary of state is hereby authorized to transfer and deliver to the board of claims of the state of New York, all of the records, books, papers, decisions and files of the late state board of audit, remaining on deposit or on file in the office of the secretary of state on the first day of June, eighteen hundred and eighty-three, and now so remaining on deposit or file in said office.

Board of claims to receive the same, etc. § 2. The said board of claims are hereby authorized, within sixty days after the passage of this act, to receive from the secretary of state all of the records, books, papers, decisions and files of the late state board of audit, referred to in the first section of this act, and to deposit and file the same in the office of the clerk of said board of claims in the capitol in the city of Albany. The presiding commissioner of said board or the clerk of said board is hereby authorized and required to execute and deliver to the secretary of state a receipt for all such records, books, papers, decisions and files of said late state board of audit, so as aforesaid delivered.

Future custody thereof. § 3. From and after the deposit and filing of such records, books, papers, decisions and files in the office of the said clerk of the board of claims, the same shall be kept and remain in the office of said clerk, and under his custody and care, as part of the records, books, documents and papers of his said office.

When evidence. § 4. The copy or copies of any of the aforesaid records, books, decisions, documents or papers, certified by the clerk of said board of claims, under the seal thereof, shall be entitled to be read in evidence in any and all courts, and before any and all boards and officers of this state, with the like force and effect

as records, documents and papers certified under the seal of the supreme court by a clerk thereof, or by any of the public officers, boards or departments of this state, pursuant to statute, or the provisions of the code of civil procedure.

[Section 5, temporary.]

[Supplementary Title.]

TITLE 8^c.

Of the Commissioner of Statistics of Labor; and his Powers and Duties.

L. 1883, Chap. 356—An act to provide for the establishment of a bureau of labor statistics.

Commissioner of statistics of labor to be appointed. SECTION 1. The governor shall, by and with the advice and consent of the senate, appoint, within ten days after the passage of this act, and thereafter triennially on the first Wednesday in April, some suitable person who shall be designated "commissioner of statistics of labor," with head-quarters in the new capitol at Albany.

Duties of. § 2. The duties of such commissioner shall be to collect, assort, systematize and present in annual reports to the legislature, within ten days after the convening thereof in each year, statistical details relating to all departments of labor in the state, especially in relation to the commercial, industrial, social and sanitary condition of workmen, and to the productive industries of the state.

Power to send for persons and papers, etc.; to inspect mines, manufactories, etc.; wilful refusal to furnish statistics, etc., how punished. § 3. Said commissioner shall also have power to send for persons and papers, to examine witnesses under oath, to take depositions, to cause them to be taken by others by law authorized to take depositions; and said commissioner may depute any uninterested person to serve subpoenas upon witnesses who shall be summoned in the same manner and paid the same fees as witnesses before a county court; and any person or owner, operator, manager or lessee of any mine, factory, workshop, warehouse, elevator, foundry, machine shop, or other manufacturing establishment, or any agent or employee of such owner, operator, manager or lessee, who shall refuse to said commissioner admission therein for the purpose of inspection, or who shall, when requested by him, wilfully neglect or refuse to furnish to him any statistical or other information relative to his lawful duties, which may be in their possession or under their control, or who shall wilfully neglect or refuse, for thirty days, to answer questions by circular or upon personal application, or who shall knowingly answer any such questions untruthfully, or who shall refuse to obey the subpoenas and give testimony according to the provisions of this act, provided that no witness shall against his will be compelled to answer any question respecting his private affairs, shall for every such wilful neglect or refusal be deemed guilty of a misdemeanor, and on conviction therefor, shall be punished by a fine of not less than fifty or more than two hundred dollars. [*Thus amended by L. 1886, ch. 205.*]

Salary; clerk. § 4. The said commissioner shall receive as his salary the sum of two thousand five hundred dollars per annum. He may appoint a clerk at an annual salary of one thousand two hundred dollars and shall be allowed actual and necessary expenses, not exceeding the sum of three thousand dollars for the first year.

[Section 5, temporary.]

Repeal. § 6. All acts and parts of acts inconsistent with the foregoing provisions are hereby repealed.

[Supplementary Title.]

TITLE 8^o.

Of the Civil Service Commissioners; their Powers and Duties; and Regulations relating to the Civil Service.

L. 1883, Chap. 354—An act to regulate and improve the civil service of the state of New York.

Commission created; commissioners, appointment of, etc. SECTION 1. The governor is authorized to appoint, by and with the advice and consent of the senate, three persons, not more than two of whom shall be adherents of the same party, as civil service commissioners, and said three commissioners shall constitute the New York civil service commission. They shall hold no other official place under the state of New York. The governor may remove any commissioner; and any vacancy in the position of commissioner shall be so filled by the governor, by and with the advice and consent of the senate, as to conform to said conditions for the first selection of commissioners. The three commissioners shall each receive a salary of two thousand dollars a year. And each of said commissioners shall be paid his necessary travelling expenses incurred in the discharge of his duty as a commissioner.

Duty of commission; rules; what rules shall provide for. § 2. It shall be the duty of said commission :

First. To aid the governor, as he may request, in preparing suitable rules for carrying this act into effect; and when said rules shall have been promulgated, it shall be the duty of all officers of the state of New York, in the departments and offices to which any such rules may relate, to aid, in all proper ways, in carrying said rules, and any modifications thereof, into effect.

Second. And among other things, said rules shall provide and declare, as nearly as the conditions of good administration will warrant, as follows :

1. For open, competitive examinations for testing the fitness of applicants for the public service now classified or to be classified hereunder. Such examinations shall be practical in their character and, so far as may be, shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of that service into which they seek to be appointed.

2. All the offices, places and employments so arranged or to be arranged in classes shall be filled by selections from among those graded highest as the results of such competitive examinations.

3. There shall be a period of probation before any absolute appointment or employment aforesaid.

4. Promotions from the lower grades to the higher shall be on the basis of merit and competition.

5. No person in the public service is for that reason under any obligation to contribute to any political fund, or to render any political service, and no person shall be removed or otherwise prejudiced for refusing to do so.

6. No person in said service has any right to use his official authority or influence to coerce the political action of any person or body.

7. There shall be non-competitive examinations when competition may not be found practicable.

8. Notice shall be given in writing by the appointing power to said commission of the person selected for appointment or employment from among those who have been examined, of the place of residence of such persons, of the rejection of any such persons after probation, of transfers, resignations, and removals, and of the date thereof, and a record of the same shall be kept by said commission. And any necessary exceptions from said eight fundamental provisions of the rules shall be set forth in connection with such rules, and the reasons therefor shall be stated in the annual reports of the commission.

Third. Said commission shall, subject to the rules that may be made by the governor, make regulations for, and have control of such examinations, and,

through its members or the examiners, it shall supervise and preserve the records of the same; and said commission shall keep minutes of its own proceedings.

Fourth. Said commission may make investigations concerning the facts, and may report upon all matters touching the enforcement and effects of said rules and regulations, and concerning the action of any examiner or board of examiners hereinafter provided for, and its own subordinates, and those in the public service, in respect to the execution of this act; and in the course of such investigations, each commissioner and their secretary shall have power to administer oaths.

Fifth. Said commission shall make an annual report to the governor for transmission to the legislature, showing its own action, the rules and regulations and the exceptions thereto in force, the practical effects thereof, and any suggestions it may approve for the more effectual accomplishment of the purposes of this act.

17 Abb. N. C., 64.

Chief examiner, duty of, salary, etc.; secretary, etc.; messenger, etc.; board of examiners; compensation of examiners; use of public buildings. § 3. Said commission is authorized to employ a chief examiner, a part of whose duty it shall be under its direction to act with the examining boards so far as practicable, whether at Albany or elsewhere, and to secure accuracy, uniformity and justice in all their proceedings, which shall be at all times open to him. The chief examiner shall be entitled to receive a salary at the rate of thirty-six hundred dollars a year, and he shall be paid his necessary travelling expenses incurred in the discharge of his duty. The commission is authorized to employ a secretary, who may be one of its own number, who shall receive a compensation of one thousand dollars per annum, and who shall also be paid his necessary travelling expenses incurred in the discharge of his duty, and also a person to act as stenographer and copyist who shall be entitled to receive a compensation of one thousand dollars a year, or in its discretion may from time to time employ stenographers and copyists at an expense not to exceed in the aggregate the sum of one thousand dollars a year. The commission may appoint a messenger, to act also as clerk, at a salary not exceeding nine hundred dollars a year, and may dismiss him at pleasure. The commission may, at Albany and in any other part of the state where examinations are to take place, designate and select a suitable number of persons in the official service of the state of New York, after consulting the head of the department or office in which such person serves, or in its discretion, persons not in the official service, to be members of boards of examiners, and may at any time substitute any other person in or out of such service in place of any one so selected. Any person not at the time in the official service of the state, or of any political division thereof serving as a member of the board of examiners shall be entitled to compensation for every day actually and necessarily spent in the discharge of his duty as examiner at the rate of five dollars a day, but the aggregate compensation of any such examiner shall not exceed one hundred dollars in any year. It shall be the duty of the officers of the state of New York, or of any political division thereof, at any place outside of the city of Albany where examinations are directed by said rules or by said board to be held, to allow the reasonable use of the public buildings, and to light and heat the same, for holding such examinations, and in all proper ways to facilitate the same. [*Thus amended by L. 1884, ch. 357.*]

Trustees of public buildings to provide rooms; commission to procure stationery, etc. § 4. It shall be the duty of the trustees of public buildings designated by chapter three hundred and forty-nine of the laws of eighteen hundred and eighty-three to cause suitable and convenient rooms and accommodations to be assigned or provided, and to be furnished, heated and lighted at the city of Albany for carrying on the work of said commission and said examinations, and said commission may order the necessary stationery, postage stamps, an official seal and other articles to be supplied, and the necessary printing to be done for its official use. And the cost and expense thereof, and the several salaries, compensations and necessary expenses of the commission, upon the same being stated in detail and verified by affidavit as the comptroller may direct, shall be paid monthly from any money in the treasury not otherwise appropriated. [*Thus amended by L. 1884, ch. 357.*]

Misdemeanor to wilfully or corruptly obstruct, etc., persons applying for examination, etc. § 5. Any commissioner, examiner, copyist, or messenger herein mentioned, or any other person who shall wilfully and corruptly, by himself or in co-operation with one or more persons, defeat, deceive, or obstruct any person in respect of his or her right of examination according to any rules or regulations prescribed pursuant to the provisions of this act, or who shall wilfully, corruptly, and falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined pursuant to the provisions of this act, or aid in so doing, or who shall wilfully and corruptly make any false representations concerning the same, or concerning the person examined, or who shall wilfully and corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined or to be examined, shall for each offence be deemed guilty of a misdemeanor. [*Thus amended by L. 1884, ch. 410.*]

Clerks to be classified. § 6. Within four months after the expiration of the present session of the legislature, it shall be the duty of the governor to cause to be arranged in classes the several clerks and persons employed or being in the public service, for the purposes of the examination herein provided for, and he shall include in one or more of such classes, so far as practicable, all subordinate places, clerks and officers in the public service of the state.

After eight months persons not to be appointed until after examination. § 7. After the termination of eight months from the expiration of the present session of the legislature, no officer or clerk shall be appointed, and no person shall be admitted to or be promoted in either of the said classes now existing, or that may be arranged hereunder pursuant to said rules, until he has passed an examination, or is shown to be specially exempted from such examination, in conformity herewith. No elective officer, and no person merely employed as a laborer or workman, shall be required to be classified hereunder; nor, unless by the direction of the senate, shall any person who has been nominated for confirmation by the senate be required to be classified or to pass an examination.

Mayor of each city to prescribe regulations for admission into civil service of city, etc.; after three months no person to be appointed or promoted until examined; officers, etc., excepted from provisions of this act; examinations to be public. § 8. The mayor of each city in this state is authorized and is hereby directed to prescribe such regulations for the admission of persons into the civil service of such city as may best promote the efficiency thereof and ascertain the fitness of candidates in respect to character, knowledge, and ability for the branch of the service into which they seek to enter, and for this purpose he shall from time to time employ suitable persons to conduct such inquiries and make examinations, and shall prescribe their duties and establish regulations for the conduct of persons who may receive appointments in the said service. And the regulations so to be prescribed shall among other things provide and declare as in the second subdivision of the second section of this act is provided and declared in reference to regulations for admission to the civil service of the state. Within two months after the passage of this act, it shall be the duty of each of said mayors in and by such regulations to cause to be arranged in classes the several clerks and persons employed, or being in the public service of the city of which he is mayor, and he shall include in one or more of such classes, so far as practicable for the purposes of the examination herein provided for, all subordinate clerks and officers in the public service of the said city to whom his power under this act extends. After the termination of three months from the passage of this act, no officer or clerk shall be appointed, and no person shall be admitted to or be promoted in either of the said classes now existing or that may be arranged hereunder pursuant to said rules, until he has passed an examination, or is shown to be exempted from such examination, in conformity with such regulations. Such regulations hereafter prescribed and established, and any subsequent modification thereof, shall take effect upon the approval of the New York civil service commission. Officers elected by the people, and the sub-

ordinates of any such officer for whose errors or violation of duty such officer is financially responsible, and the head or heads of any department of the city government, and persons employed in or who seek to enter the public service under the educational departments of any city, and any subordinate officer who by virtue of his office has personal custody of public moneys or public securities, for the safe keeping of which the head of an office is under official bonds, shall not be subject to the regulations prescribed pursuant to this section, nor shall any regulations contravene an existing statute relating to entrance to said service. It shall be the duty of all those in the official service of any such city to conform to and comply with any regulations made pursuant to this act, and to aid and facilitate in all reasonable and proper ways the enforcement of all regulations and the holding of all examinations which may be required under the authority conferred by this section. But the authority by this section conferred shall not be so exercised as to take from any policeman or fireman any right or benefit conferred by law, or existing under any lawful regulation of the department in which he serves. And all examinations herein authorized shall be public, and all regulations shall be published, and, with all the proceedings and papers connected with said examinations, shall be at all times subject to the inspection of said commission and its agents; and said commission shall set forth in its reports the character and practical effects of such examinations, together with its views as to the improvement and extension of the same, and also copies of all regulations made under the authority hereby conferred. [*Thus amended by L. 1884, ch. 410.*]

16 Abb. N. C., 96, 119.

Recommendations from certain officers not to be received. § 9. No recommendation of any person who shall apply for office or place under the provisions of this act, which may be given by any senator or member of assembly, or officer confirmed by the senate, or judge of any court, except as to the character or residence of the applicant, shall be received or considered by any person concerned in making any examination or appointment under this act.

[Section 10 repealed by L. 1884, ch. 357.]

Political assessments prohibited. § 11. No officer, agent, clerk or employee under the government of the state of New York or any political division thereof shall directly or indirectly use his authority or official influence to compel or induce any other officer, clerk, agent or employee under said government, or any political division thereof, to pay or promise to pay any political assessment. Every said officer, agent or clerk, who may have charge or control in any building, office or room occupied for any purpose of said government, or any said division thereof, is hereby authorized to prohibit the entry of any person, and he shall not consent that any person enter the same for the purpose of therein making, collecting, receiving or giving notice of any political assessment; and no person shall enter or remain in any said office, building or room, or send or direct any letter or other writing thereto, for the purpose of giving notice of, demanding or collecting, nor shall any person therein give notice of, demand, collect or receive any such assessment; and no person shall prepare or make out, or take any part in preparing or making out, any political assessment, subscription or contribution, with the intent that the same shall be sent or presented to or collected of any officer, agent or employee subject to the provisions of this act, under the government of the state of New York, or that of any political division thereof, and no person shall knowingly send or present any political assessment, subscription or contribution to or request its payment of any said officer, agent or employee. [*Thus amended by L. 1884, ch. 357.*]

Penalty. § 12. Any person who shall be guilty of violating any provision of the last section shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not less than fifty dollars and not exceeding one thousand dollars, or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment, in the discretion of the court. [*Thus amended by L. 1884, ch. 357.*]

Recommendations, etc., not to relate to politics. § 13. No recommendation or question under the authority of this act shall relate to the political opinions or affiliations of any person whatever.

Officers and candidates not to corruptly promise influence, etc., to secure vote or influence political action; penalty; "public officer" defined. § 14. Whoever while holding any public office, or in nomination for, or while seeking a nomination or appointment for any public office, shall corruptly use or promise to use, whether directly or indirectly, any official authority or influence (whether then possessed or merely anticipated), in the way of conferring upon any person, or in order to secure or aid any person in securing any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon the consideration or condition that the vote or political influence or action of the last-named person, or any other shall be given or used in behalf of any candidate, officer or party, or upon any other corrupt condition or consideration, shall be deemed guilty of bribery or an attempt at bribery. And whoever, being a public officer, or having or claiming to have any authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal, or increase or decrease of salary of any public officer, shall corruptly use or promise or threaten to use any such authority or influence, directly or indirectly, in order to coerce or persuade the vote or political action of any citizen, or the removal, discharge or promotion of any officer or public employee, or upon any other corrupt consideration, shall also be guilty of bribery or of an attempt at bribery. And every person found guilty of such bribery or of an attempt to commit the same, as aforesaid, shall, upon conviction thereof, be liable to be punished by a fine of not less than one hundred dollars nor more than three thousand dollars, or to be imprisoned not less than ten days nor more than two years, or to both said fine and said imprisonment in the discretion of the court. The phrase "public officer" shall be held to include all public officials in this state, whether paid directly or indirectly from the public treasury of the state, or from that of any political division thereof, or by fees or otherwise; and the phrase "public employee" shall be held to include every person not being an officer who is paid from any said treasury.

Quorum; inquiries as to methods of appointments, etc. § 15. A majority of the members of said board shall constitute a quorum, but a less number may adjourn from day to day. Said commission, when organized, shall immediately inquire into the methods of appointment, removal, terms of service, duties, compensation and numbers of all clerks, employees or subordinate officers of any nature whatsoever, either of this state or of cities or counties therein, having a population exceeding fifty thousand inhabitants, who are not, by existing laws, appointed by the governor of the state or by the mayor of any city, or elected by the people; and whether the action of political parties or the public acts of official servants are in any wise affected, and if so to what degree, by the present methods of such appointments, tenure of office, removals and compensations, and whether the public interest would or would not be advanced by prescribing competitive tests or standards of appointment for any or all of such subordinate public servants, in addition to those who are hereinbefore included, and if so, the nature and extent of such tests or standards; and whether any abuses exist in connection with the existing practices touching said appointments, tenures, compensations or removals that require reform, or that may be abated by legislation or otherwise. Said commission may also further extend its inquiries so far as to enable it to report whether any, and if so, what legislation is expedient, relative to the methods and amounts of compensation of all county officers and their subordinates in this state.

Attendance of witnesses, etc. § 16. Said commission shall have like power to secure, by its subpoena, the attendance and testimony of witnesses, and the production of books and papers pertinent to the investigations and inquiries hereby authorized, to that prescribed in and by chapter three hundred and fifty-three of the laws of eighteen hundred and eighty-two, for the commission thereby constituted in the execution of its duties as in said act last mentioned; and witnesses and

officers to subpoena and secure the attendance of witnesses before said commission shall be entitled to the same fees as are allowed witnesses in civil suits in courts of record. Such fees need not be prepaid, but the comptroller shall draw his warrant for the payment of the amount thereof when the same shall have been certified to, by the president of the commission, and duly proved by affidavit or otherwise to the satisfaction of the said comptroller; and all state, county, town, municipal and other officers and their deputies, clerks, subordinates and employees shall afford the said board all reasonable facilities in conducting the inquiries specified in this act, and give inspection to said board of all books, papers and documents belonging or in any wise appertaining to their respective offices, and also shall produce said books and papers, and shall attend and testify when required to do so by said commission. [*Thus amended by L. 1884, ch. 357.*]

Official oath; compensation; \$15,000 appropriated. § 17. Said commissioners hereinafter named, or in case of vacancy from among their number by declination, resignation or otherwise, a successor commissioner to be appointed by the governor, shall qualify by filing with the secretary of state an oath to perform faithfully the duties of such commissioner. Each commissioner shall receive the compensation hereinbefore provided, together with his actual travelling expenses in the discharge of his duties as such commissioner. The said salaries and expenses, together with the other necessary expenses of said board to be approved by the comptroller and thereafter paid out of the treasury of this state; and the sum of fifteen thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the state treasury not otherwise appropriated for the purposes stated in this act.

L. 1884, Chap. 357 — An act to amend chapter three hundred and fifty-four of the laws of eighteen hundred and eighty-three, entitled "An act to regulate and improve the civil service of the state of New York."

[Sections 1 to 5, and § 7, amend L. 1883, ch. 354. Section 6 omitted as temporary.]

Certain election officers exempted from examination. § 8. The election officers now in office, and the inspectors of election and poll clerks shall be exempt from examination in accordance with the act hereby amended, or the amendments thereof, and it shall be the duty of the commissioners and mayors of cities so to provide in regulations made under said act.

L. 1884, Chap. 410 — An act to amend chapter three hundred and fifty-four of the laws of eighteen hundred and eighty-three, entitled "An act to regulate and improve the civil service of the state of New York."

[Sections 1 and 2 amend L. 1883, ch. 354.]

Existing regulations continued in force. § 3. Where before the passage of this act the mayor of any city herein mentioned has prescribed regulations pursuant to the power given him by the act hereby amended, such regulations shall be deemed to be established and prescribed and to be operative as if established, prescribed, and approved under the provisions of the said act as hereby amended; and the examiners who before the passage of this act have by the mayor of any such city been appointed or designated under the provisions of the said act, shall be deemed to be appointed, and to have all the powers and duties which they would have if appointed under the provisions of the said act as hereby amended.

Preference allowed to persons who served in army or navy in late war. § 4. In grateful recognition of the services, sacrifices and sufferings of persons who served in the army or navy of the United States in the late war, and have been honorably discharged therefrom, they shall be certified as such by the commissioners, board or officers authorized to report names for appointment, to the appointing

officer, or other appointing power, and shall be preferred for appointment to positions in the civil service of the state and of the cities affected by this act and the several acts hereby amended, over all other persons, though graded lower than others so examined and reported, provided their qualifications and fitness shall have been ascertained as provided under this act and the several acts hereby amended, and the person thus preferred shall not be disqualified from holding any position in said civil service on account of his age, nor by reason of any physical disability, provided such age or disability does not render him incompetent to perform the duties of the position applied for. [*Thus amended by L. 1886, ch. 29.*]

Soldiers and sailors, after examination, to be specially certified for appointment. § 5. Whenever it shall appear after a competitive examination for appointment to a position in the civil service of the state, or of the cities affected by this act, and the several acts hereby amended, that more than one such honorably discharged soldier or sailor is qualified to fill the same, the commissioners, board or officer authorized to report names for appointment shall certify to the appointing officer, or the appointing power, all of such honorably discharged soldiers or sailors whose qualifications and fitness have been ascertained as aforesaid, specifying their respective grades in such examination; provided, however, that when more than three of such honorably discharged soldiers or sailors shall be so found duly qualified for appointment to such positions, there shall be certified for such appointment not more than two names in excess of the number of places to be filled, and in all such cases the appointment shall be made from among those not exceeding three in number, being so certified, who are graded highest, as the result of such examination. [*Added by L. 1886, ch. 29.*]

L. 1888, Chap. 269 — An act making appropriations for the support of government.

[The general appropriation act.]

Extract from § 1. For the care, cleaning, labor, lights, salary of the superintendent of public buildings, services of orderlies and watchmen, and all necessary expenses of the public buildings in charge of the trustees of public buildings, pursuant to the provisions of chapter three hundred and forty-nine of the laws of eighteen hundred and eighty-three, one hundred and fifty thousand dollars; provided that the orderlies and watchmen and persons employed in positions which on March first, eighteen hundred and eighty-six, were designated on the books of the superintendent of public buildings as those of orderlies or watchmen who shall receive any portion of said sum of one hundred and fifty thousand dollars for their services shall be persons who are citizens of the state of New York, and who served in the Union army or navy during the late war, and have been honorably discharged therefrom. And such honorably discharged persons shall not be subject to civil service rules of examination.

[A similar clause is contained in the general appropriation act for several preceding years.]

TITLE 1.

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CHAPTER IX.

OF THE FUNDS, REVENUE, EXPENDITURES, AND PROPERTY OF THE STATE; AND THE ADMINISTRATION THEREOF.

TITLE I.—OF THE GENERAL FUND, AND THE EXPENDITURES CHARGEABLE THEREON.

TITLE II.—OF THE CANAL FUND, AND THE ADMINISTRATION THEREOF.

TITLE III.—OF THE LITERATURE FUND.

TITLE IV.—OF THE COMMON SCHOOL FUND.

[Supplementary Titles.

TITLE 4^A.—Of the United States Deposit Fund.

TITLE 4^B.—Of the College Land Scrip Fund.

TITLE 4^C.—Of other funds, and of provisions relating to two or more funds, to state loans, and to other matters connected with the state finances.]

TITLE V.—OF THE PUBLIC LANDS, AND THE SUPERINTENDENCE AND DISPOSITION THEREOF.

[Supplementary Titles.

TITLE 5^A.—Of the Forest Commission; and its Powers and Duties; and Regulations for the preservation of forests.

TITLE 5^B.—Of the State Reservation at Niagara; and the Commissioners thereof.

TITLE 5^C.—Of the State Agricultural Experiment Station.]

TITLE VI.—OF MORTGAGES TO THE PEOPLE OF THIS STATE, AND THE FORECLOSURE THEREOF.

TITLE VII.—OF THE PUBLIC BUILDINGS AND ERECTIONS.

[Supplementary Titles.

TITLE 7^A.—Of the Commissioner of the New Capitol, and the Superintendent of Public Buildings; and their Powers and Duties.

TITLE 7^B.—Of the New Capitol.

TITLE 7^C.—Of Washington's Headquarters at Newburgh.

TITLE 7^D.—Of the New York Soldiers' and Sailors' Home.

TITLE 7^E.—Of the Senate House at Kingston.]

TITLE VIII.—OF THE STATE LIBRARY.

TITLE I.

[Supplementary Titles.

TITLE 8^A.—Of other Libraries belonging to the State.

TITLE 8^B.—Of the State Museums and Cabinets.]

TITLE IX.—OF THE CANALS.

TITLE X.—OF THE SALT SPRINGS.

[Repealed.]

TITLE XI.—OF THE INTEREST OF THE STATE IN MINES.

TITLE XII.—OF ESCHEATS.

[Repealed.]

TITLE XIII.—OF THE RECOVERY OF FORFEITED ESTATES.

[Repealed.]

TITLE I.

Of the General Fund, and the Expenditures Chargeable thereon.

- Sec. 1. Designation and description of the general fund.
 2. Duties on pedlers to belong to general fund.
 3. Fees of secretary of state; comptroller and surveyor-general, part of general fund; tariff of those fees.
 4. Moneys recovered for certain penalties to go to general fund.
 5. Salaries of officers of government.
 6. Salaries, when and how payable.
 7. Treasurer may retain his salary.
 8 and 9. Pay of lieutenant-governor.
 10. Sums allowed for clerk hire, and how and when paid.
 11. Furniture, stationery, etc., of certain officers, to be paid out of the treasury. [189]
 12. Blanks, books, stationery, etc., and postage of adjutant-general and judge-advocate-general.
 13. Rent and taxes of governor's house.
 14. Incidental expenses of the governor.
 15. Allowance to governor, to defray expenses of apprehending criminals.
 16. Additional expenditures chargeable upon general fund.
 17. Deficiency in common school fund, how supplied.

SECTION I. The stocks, debts, and other property heretofore known as the general fund of this state, shall continue, together with the increase and revenue thereof, and the additions which may be made thereto, to be known and denominated as the "General Fund."

General fund. 90 N. Y., 144.

[See Const., art. VII, § 2; also art. VII, § 3, as amended in 1854 and 1874.]

§ 2. All monies paid into the treasury for duties imposed upon hawkers, pedlers, and petty chapmen, shall be deemed a part of the general fund.

Duties on pedlers.

§ 3. The fees of office which may be received by the secretary of state, the comptroller, and the surveyor-general, shall be deemed a part of the general fund. The rate of such fees shall be as follows:

Fees of certain officers.

I. FEES OF THE SECRETARY OF STATE.

For entering a caveat, twelve and a half cents.

Secretary's fees.

Searching the records in his office for any one year, twelve and a half cents, and for every other year in which such search is actually made on request, six cents.

[The remainder of this section appears clearly to be inconsistent with L. 1882, ch. 156, *post*, and so to be repealed by § 4 of that act.]

[2 R. L., 29; Ib., 228, § 2; L. 1825, 427, § 3.]

TITLE 1.

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Comptrol-
ler's fees.

2. FEES OF THE COMPTROLLER.

For opening a new account, for part of the consideration due on any lot or piece of land, or for a discharge for any such part, in cases in which no new account shall have been opened, two dollars.

For a deed of lands sold for taxes, containing the description of only one piece, fifty cents; and for every additional piece described in the same deed, ten cents.

[1 R. L., 476, § 6; L. 1827, 4, § 5.]

[L. 1881, ch. 320, § 16. In addition to the fees of office, which the comptroller is now by law permitted to charge, he shall charge the same fees for copies of papers, records, engrossing, seal, and certificate to be used in a court of justice as are now chargeable by the secretary of state, and account for the same in the same manner.]

3. FEES OF THE SURVEYOR-GENERAL.¹

Surveyor
general's
fees.

For filing every paper, six cents.

For all original drafts, twenty-five cents.

For drawing all original papers, for each folio of one hundred words, ten cents; for recording, when requisite, for each folio, ten cents; and for copies of all papers on file, for each folio, ten cents.

For every search, ten cents.

For copies of maps, such sum as is usually charged for the like business.

For surveys to be performed, at the rate of three dollars for the surveyor, per day, exclusive of the reasonable expenses for the hire of men and horses, and for provisions.

[1 R. L., 483, § 5.]

Certain
penalties.

§ 4. All monies recovered by any public officer, for penalties or forfeitures given by law to the people of this state, and not specially appropriated to any other fund, shall also be deemed a part of the general fund.

Charges on
the general
fund.
Salaries.

§ 5. There shall be allowed to the several officers of government, and persons hereinafter mentioned, the following annual salaries, to be paid quarterly out of any monies in the treasury belonging to the general fund, and not otherwise especially appropriated by law, that is to say:

1. To the governor, four thousand dollars; and to his private secretary, six hundred dollars.

2. To the secretary of state, and as superintendent of common schools, one thousand five hundred dollars; and to the deputy secretary, and as clerk of the commissioners of the land-office, one thousand five hundred dollars.

3. To the comptroller, two thousand five hundred dollars; and to his deputy, one thousand five hundred dollars.

4. To the treasurer, one thousand two hundred and fifty dollars; and to the treasurer's clerk, eight hundred dollars.

5. To the attorney-general, one thousand dollars.

6. To the surveyor-general, eight hundred dollars.

7. To the chancellor, and each of the justices of the supreme court, two thousand dollars.

¹ Now the state engineer and surveyor, *ante*, p. 525.

8. To the chancellor's clerk, six hundred dollars.
9. To each of the circuit judges, one thousand two hundred and fifty dollars.
10. To the state reporter, and chancery reporter, five hundred dollars each.
11. To the commissary-general, seven hundred dollars.
12. To the adjutant-general, eight hundred dollars.
13. To the judge-advocate general, one hundred and fifty dollars.
14. To the state librarian, three hundred and fifty dollars.
15. To each of the acting canal commissioners, one thousand five hundred dollars.*

TITLE I.
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* [The foregoing section has been entirely abrogated by subsequent constitutional amendments and legislation. As amended, so as to indicate the expenses and salaries allowed by existing statutes, it should read as follows:]

Salary of the governor and lieutenant-governor. To the governor, ten thousand dollars and a furnished house; the lieutenant-governor five thousand dollars.
[Const., art. IV, §§ 4, 8.]

Salary of private secretary. To the private secretary of the governor, four thousand dollars.

Salary of secretary of state. To the secretary of state, five thousand dollars, and to the deputy-secretary, and as clerk of the commissioners of the land-office, one thousand five hundred dollars.

[For many years, the legislature has annually appropriated \$4,000 for the compensation of the deputy-secretary of state, in both capacities, and for indexing the session laws, and preparing marginal notes thereto.]

Salary of superintendent of public instruction. To the state superintendent of public instruction, five thousand dollars, to the deputy-superintendent four thousand dollars.

[L. 1875, ch. 567; L. 1888, ch. 533.]

Salary of comptroller. To the comptroller, six thousand dollars, and to the deputy-comptroller four thousand dollars.

Salary of treasurer. To the treasurer of this state, five thousand dollars, and to the deputy-treasurer thirteen hundred dollars.

[For many years, the legislature has annually appropriated \$4,000 for the salary of the deputy-treasurer.]

Salary of attorney-general. To the attorney-general, five thousand dollars, instead of the compensation, fees, and perquisites now allowed by law.

[L. 1875, ch. 145.]

Deputies. To the first and second deputy attorneys-general four thousand dollars each.¹

State engineer and surveyor. To the state engineer and surveyor, five thousand dollars; to his deputy four thousand dollars.

Judges of the court of appeals. From and after the first Monday of April, 1887, the salary of the chief judge of the court of appeals shall be ten thousand five hundred dollars, and the salary of the associate judges of said court shall be ten thousand dollars.

[L. 1870, ch. 203, § 8, as modified by L. 1887, ch. 76.]

Expenses of judges of court of appeals. The chief judge and associate judges of the court of appeals shall each receive the sum of two thousand dollars, annually,

¹ The deputies are now appointed at the discretion of the attorney-general and paid by him out of a gross sum appropriated. See *ante*, p. 524.

TITLE 1.

§ 6. The salaries above specified shall be payable in equal quarterly payments at the treasury, on the first days of January, April, July and October, in every year, and shall be computed as becoming due to the several officers above named, in proportion to the times for which they shall hold their respective offices.

[1 R. L., 523, § 1.]

from the time they entered upon the duties of their offices, respectively, in lieu of expenses now allowed by law.

[L. 1870, ch. 203, § 8, as modified by L. 1871, ch. 718.]

Salaries of supreme court justices; per diem allowances during session of court. The justices of the supreme court shall receive an annual compensation of six thousand dollars each, payable quarterly, in lieu of all other compensation, except that they shall receive, in addition to such stated salaries, a per diem allowance of five dollars per day for their reasonable expenses when absent from their homes and engaged in holding any general or special term, circuit court, or court of oyer and terminer, or in attending any convention, as hereinafter provided, to revise the rules of said court.

[L. 1870, ch. 408, § 9, as amended by L. 1871, ch. 718, and L. 1872, ch. 541.]

Expenses of justices of supreme court. The said justices of the supreme court, except in the first judicial district, shall each receive the sum of twelve hundred dollars, annually, from the first day of January, eighteen hundred and seventy-two, in lieu of and in full of all expenses now allowed by law. This subdivision shall not increase the pay of any judge except the justices of the supreme court.

[L. 1870, ch. 408, as amended by L. 1871, ch. 718, and L. 1872, ch. 541.]

Payments by comptroller to justices of supreme court of second district legalized. All payments heretofore made by the comptroller of the state to justices of the supreme court of the second judicial district out of moneys received by him under and pursuant to the provisions of an act of the legislature, entitled "An act authorizing the supervisors of the several counties in the second judicial district, not including the county of Kings, to appropriate and pay compensation to justices of the supreme court and to stenographers of said court," passed May nine, eighteen hundred and sixty-eight, are hereby declared to be in all things legal and valid.

[L. 1872, ch. 765, § 1.]

Comptroller to make further payments to said justices. The said comptroller is hereby authorized and directed to pay to the justices of the supreme court, referred to in the aforesaid act, and in the manner therein specified, all the moneys heretofore received by him for said justices, under the provisions of said act, and now remaining unpaid to said justices, and also all moneys which may hereafter be received for them by him, under the provisions of such act; the said moneys are hereby appropriated to the above purposes.

[L. 1872, ch. 765, § 2.]

The daily compensation mentioned in section two of chapter five hundred and seventy-five of the laws of eighteen hundred and fifty-five shall, from and after the first day of January, eighteen hundred and seventy-four, be paid to each justice of the supreme court not residing in the first judicial district of this state, sitting in and acting as a member of the general term of the first judicial department, for each day necessarily devoted to the examination and decision of cases heard by such court, while he may be a member thereof, as well as for the time said justice shall be a member of such court.

[L. 1875, ch. 414. The sum is ten dollars.]

Fees of officers, how paid. The fees of criers, sheriffs, constables and police officers for attending general terms, and all expenses incurred by sheriffs under and pursuant to the preceding section of this act, shall be audited by the comptroller and be paid out of the treasury of the state.

[L. 1870, ch. 408.]

§ 7. The sums which shall from time to time, become due to the treasurer, for his salary, may be retained by him in quarterly payments, on the warrant of the comptroller.

TITLE 1.
lb., treasurer.

[1 R. L. 523, § 1.]

§ 8. There shall be allowed and paid to the lieutenant-governor six dollars for every day's attendance as president of the senate, or president of the court for the trial of impeachments and the correction of errors; or as commissioner of the canal fund, or land-office;

Allowance to lieutenant-governor.

State reporter. For the state reporter, for salary, pursuant to chapter six hundred and ninety-eight of the laws of eighteen hundred and sixty-nine, and chapter seven hundred and eighteen of the laws of eighteen hundred and seventy-one, five thousand dollars, which shall be his annual salary from and after February fourteen, eighteen hundred and seventy-two, and for clerical help to the state reporter, two thousand dollars.

[L. 1872, ch. 541.]

Clerk of the court of appeals. For the clerk of the court of appeals, for salary, five thousand dollars, which is hereby fixed as his annual salary from the date of his appointment.

[L. 1871, ch. 718.]

Deputy clerk. For the deputy clerk of the court of appeals, three thousand dollars.

Salary of crier and attendants of court of appeals. From and after the passage of this act, the crier and attendants of the court of appeals shall each receive an annual salary of fifteen hundred dollars, to be paid in monthly instalments except that the salary of the attendant known as the consultation clerk shall be eighteen hundred dollars per annum, as aforesaid; and the salary of the attendant known as the remittitur clerk, shall be twenty-two hundred dollars per annum, payable as aforesaid, and the comptroller is directed to draw his warrant for the salaries hereby provided.

[L. 1871, ch. 238, as amended by L. 1883, ch. 101.]

Superintendent of public works. To the superintendent of public works six thousand dollars and his travelling expenses, to each of the assistant superintendents of public works three thousand dollars and his travelling expenses.

[L. 1877, ch. 85, in ch. 8. *ante.*]

Superintendent of state prisons. To the superintendent of state prisons, for salary, six thousand dollars, besides his travelling expenses.

[L. 1877, ch. 24, in ch. 8, *ante.*]

Inspector of public works. For the inspector of public works, for salary, five thousand dollars, besides his expenses.

[L. 1875, ch. 227, in ch. 8.]

Commissioners of claims. To the commissioners of claims, for salaries, five thousand dollars each, and five hundred dollars each for expenses; to their clerk three thousand dollars and his expenses; to their deputy clerk fifteen hundred dollars.

[L. 1883, ch. 205, § 1; L. 1887, ch. 195.]

Railroad commissioners. To the railroad commissioners, for salaries, eight thousand dollars each, besides their expenses; to their chief clerk or secretary, three thousand dollars, besides his expenses.

[L. 1882, ch. 353, § 12.]

Superintendent of bank department. To the superintendent of the banking department, five thousand dollars.

[L. 1882, ch. 409, § 2.]

TITLE 1. but he shall not be entitled to compensation as such commissioner, for attending any meeting of the canal board, or the land-office, held during the session of the senate, or of the court for the trial of impeachments and correction of errors.

[Abrogated by Const., art. IV, § 8.]

1b. § 9. The like compensation shall be allowed to the lieutenant-governor for every twenty miles travelling, in going to and returning from the place of meeting, in the discharge of such duties.

[The same.]

Clerk hire
of certain
officers.

§ 10. There shall be annually allowed to the several officers hereinafter named, such sum as shall be actually and necessarily expended in their respective offices for clerk hire, not exceeding the sums hereinafter named, to be paid quarterly, in the same manner that the salaries of the respective officers are paid.

1. To the secretary of state, eight hundred dollars.

2. To the comptroller, not exceeding six thousand dollars, to be drawn for by him in case he finds it necessary; and he shall report to the legislature, each year, the names of the clerks employed by him, and the amount paid to each.

Superintendent of the insurance department. To the superintendent of the insurance department, seven thousand dollars; to the deputy superintendent four thousand five hundred dollars.

[L. 1861, ch. 326, § 1; L. 1868, ch. 732, § 2.]

State entomologist. To the state entomologist, two thousand dollars, besides his official expenses.

[L. 1881, ch. 377, § 2.]

Superintendent of weights and measures. To the state superintendent of weights and measures, three hundred dollars.

Secretary and treasurer of the regents. To the secretary and treasurer of the regents of the university, each three thousand five hundred dollars; to the assistant secretary three thousand dollars.

[L. 1887, ch. 652.]

Dairy commissioner. To the state dairy commissioner, three thousand dollars.

[L. 1887, ch. 195; L. 1888, ch. 269.]

Civil service commissioners. To the civil service commissioners, two thousand dollars each, besides his travelling expenses; to their chief examiner, thirty-six hundred dollars, besides his travelling expenses.

[L. 1883, ch. 354, §§ 1, 3.]

Commissioner of labor statistics. To the commissioner of statistics for labor, two thousand five hundred dollars, besides his expenses; to his clerk two thousand dollars.

[L. 1883, ch. 356, § 4; L. 1887, ch. 195.]

Oyster protector. To the oyster protector, one thousand dollars, besides his expenses.

[L. 1886, ch. 300.]

Game and fish protectors. To the chief game and fish protector, two thousand dollars; each other protector, five hundred dollars, besides expenses.

[L. 1888, ch. 577.]

[Many of the salaries hereinbefore stated are in excess of the amount allowed by any express permanent enactment; but the sums stated have been specially appropriated for such salaries in the appropriation acts of several successive years.]

3. To the treasurer, two hundred and fifty dollars.
4. To the attorney-general, six hundred dollars.
5. To the surveyor-general, five hundred and fifty dollars.
6. To the adjutant-general, two hundred dollars.

[Abrogated; see note. The appropriations for clerk hire, etc., in the different state offices are made each year, without reference to the sums fixed by statute.]

§ 11. The expenses of the necessary furniture, stationery, fire-wood, book-binding, printing and postage for the offices of the secretary of state, the comptroller, the treasurer, and the surveyor-general, shall be paid out of the treasury. An account of the items of such expenses shall be annexed to each warrant to be drawn therefor.

Incidental expenses.

[Compiled from statutes in force in Sept., 1827.]

§ 12. The expenses of all necessary blanks, blank books and stationery, in the office of the adjutant-general, and of postage on official letters, received by the adjutant-general and judge-advocate-general, shall be paid out of the treasury.

1b.

[Compiled from statutes in force in Sept., 1827.]

§ 13. The rent and taxes of the house occupied by the governor of this state, as a residence, shall be paid, from time to time, as the same shall become due, out of the treasury.

1b.

[Compiled from statutes in force in Sept., 1827.]

§ 14. There shall be annually paid out of the treasury, to the governor, a sum not exceeding seven hundred and fifty dollars, to defray the incidental expenses of administering the government of this state; and he shall account with the comptroller for the expenditure thereof.

1b.

[Compiled from statutes in force in Sept., 1827.]

§ 15. There shall also be annually paid out of the treasury to the governor, a sum not exceeding two thousand dollars in the whole to defray such expenses as may from time to time, in his opinion, be necessarily incurred in the apprehension of criminals, and he shall account to the comptroller for the expenditure thereof.

Incidental expenses.

[L. 1818, 241.]

§ 16. In addition to the salaries and contingent expenses above mentioned, the following expenditures shall be chargeable on, and from time to time be paid out of, the general fund.

Other charges. 1

1. The compensation of the members and officers of the legislature, including the contingent expenses of both houses.
2. The compensation of the members of the court for the trial of impeachments and the correction of errors, including the contingent expenses of such court.

[Modified by Const., art. VI., and L. 1847, ch. 280.]

3. The monies required for the support of state prisons.
4. The annuities payable to Indians, and all expenses relating to Indian affairs.
5. The compensation of sheriffs for services not chargeable to the counties.
6. The expenses of all printing done for the state.
7. The compensation of brigade inspectors, and the expenses of

TITLE 2. the commissary's department, and all other expenses connected with the militia and the public defence.

[193] 8. All monies directed by law to be paid out of the treasury, and not specially charged on any other fund.

§ 17. Whenever the revenue of the common school fund, shall be insufficient to satisfy the annual appropriation of one hundred thousand dollars, the deficiency shall be supplied and paid from the general fund.

[L. 1826, ch. 355, § 4.]

L. 1846, Chap. 147 — An act to defray the expenses incurred in the apprehension of certain criminals.

R. S. amended. SECTION 1. The provisions of section eighteen¹ of the first title of chapter nine, part first of the Revised Statutes, in relation to the general fund and the expenditures chargeable thereon, shall be deemed to apply to all cases in which, for offenses against the criminal laws of this state, persons charged therewith, have been or shall be apprehended or legally pursued under the provisions of article tenth of the treaty of the United States of America, and the Queen of the United Kingdom of Great Britain and Ireland, concluded and signed by their plenipotentiaries at Washington, on the ninth day of August, one thousand eight hundred and forty-two, entitled a treaty to settle and define the boundaries between the territories of the United States, and the possessions of her Britannic majesty in North America, for the final suppression of the African slave trade, and for the giving up of criminals fugitive from justice in certain cases.

L. 1882, Chap. 156 — An act establishing the fees to be charged by the secretary of state for official services.

Fees to be charged. SECTION 1. The secretary of state shall hereafter charge and collect the following fees for official services:

For copies of all papers and records not required to be certified or otherwise authenticated by him, ten cents for each folio of one hundred words.

For certified or exemplified copies of all laws, records and papers (except as hereinafter stated), fifteen cents for each folio of one hundred words, and one dollar for every certificate under seal affixed thereto.

For every certificate under the great seal of the state, one dollar.

For recording every certificate, notice or other paper (except as hereinafter stated) required by law to be recorded, fifteen cents for each folio of one hundred words.

For every certificate under the seal of his office (except certificates as to the official character of commissioners of deeds residing in other states or foreign countries), one dollar; and for certificates as to the official character of such commissioners, twenty-five cents.

For every patent for lands under water, five dollars, and for every other patent the sum of one dollar for each separate lot embraced in such patent.

For each license granted to a pedler, the sum of two dollars.

For recording the depositions of resident aliens, fifty cents, and for a certified copy of such deposition, fifty cents.

For filing every certificate of incorporation under chapter forty of the laws of eighteen hundred and forty-eight, entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," and the acts amendatory thereof, the sum of ten dollars.

¹ Sec. 15 is intended. It was numbered 18 in the 2d edition, R. S.

For filing every certificate of incorporation of gas-light companies, turnpike companies, water-works companies, ferry companies, navigation companies, telegraph companies, telephone companies, hotel companies, and co-operative associations, and of every business corporation or company (except as hereinafter stated), the sum of ten dollars.

For filing, recording and issuing all the necessary papers in and about the organization of business corporations formed under chapter six hundred and eleven of the laws of eighteen hundred and seventy-five, the sum of ten dollars, and for a certified copy of the certificate of incorporation of such last-named business corporations, the sum of three dollars.

For filing articles of association of a railroad to be constructed in a foreign country and issuing certificate of incorporation and recording the same, the sum of fifty dollars.

For filing articles of association of every other railroad and for filing every agreement of consolidation between two or more railroads, the sum of twenty-five dollars.

For certified copies of the evidence and proceedings of the board of audit, on appeal to the supreme court, to be paid by the appellant on serving notice of appeal, the sum of fifteen cents for each folio of one hundred words.

No fee charged to public officers. § 2. No fee shall be charged or collected for copies of papers or records furnished to public officers for use in their official capacity.

Fees the property of the state. § 3. All fees charged and collected by the secretary of state belong to the people of this state and shall be paid into the treasury of the state to the credit of the general fund.

Repeal. § 4. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

TITLE II.

TITLE 2.

Of the Canal Fund, and the Administration thereof.

- Sec. 1. Designation and description of the canal fund.
 2 and 3. Certain parts of the fund inviolably appropriated, etc., not to be diverted until payment of money borrowed to complete certain canals.
 4. Fund, by whom superintended.
 5. Duties of commissioners of canal fund.
 6. Advances for repairs.
 7 and 8. Surplus revenues of the fund, how to be invested.
 9. Commissioners, when authorized to borrow money, to give notice.
 10. Commissioners may indemnify persons in employ of the state, under canal laws, for judgments recovered against them, etc.
 11. To inquire into circumstances before any such claim is allowed.
 12. Commissioners may direct attorney-general or employ counsel, to defend or prosecute suits brought under canal laws.
 13. Charges on the canal fund enumerated.

[The statutes relating to the powers and duties of the canal commissioners, comprised in title 9 of this chapter and supplementary acts, contain various matters connected with the subject of this title.]

SECTION 1. The canal fund shall continue to consist of the following property: Canal fund.

1. Lands granted for the construction of the canals, by the state, by companies, or by individuals, and remaining unsold.
2. Debts due for such portions of said lands, as have heretofore been sold.

TITLE 2.

3. The tolls and commutation monies, imposed on and collected from such navigable communications belonging to the state, as now are or hereafter shall be made and completed.

4. Duties on the manufacture of all salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen.

5. Proceeds of all duties on goods sold at auction, excepting therefrom the annual sum of thirty-three thousand five hundred dollars, otherwise appropriated by the said act.

6. All monies received for the sale or use of the surplus waters of any canal belonging to this state; and,

7. All monies recovered in suits for penalties or damages, instituted under the canal laws.

[Subd. 4 and 5 abrogated by the amendments to the Constitution of 1822, made in 1835.]

Certain
funds
pledged.

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§ 2. Such parts of the said fund as are designated in the tenth section of the seventh article of the Constitution of this state,¹ are to be and remain inviolably appropriated and applied to the completion of the navigable communications specified in that section, and to the payment of the interest, and the reimbursement of the capital of the money borrowed to make and complete the same. And rates of toll not less than those agreed to by the canal commissioners, and set forth in their report to the legislature of the twelfth of March, one thousand eight hundred and twenty-one, are to be imposed on and collected from all parts of such navigable communications.

[The last sentence abrogated. See L. 1851, ch. 485, § 11.]

Ib.

§ 3. Neither such rates of toll, nor the duties on the manufacture of salt, nor the duties on goods sold at auction, can be reduced or diverted at any time, before the full and complete payment of the principal and interest of the money borrowed as aforesaid.

[Abrogated as stated in note to last section.]

Superin-
tendents of
the fund.

§ 4. The canal fund shall continue to be superintended and managed by the commissioners of the canal fund, a majority of whom, including the comptroller, shall be a quorum for the transaction of business; but the care and disposition of all lands belonging to the canal fund, shall be vested in the commissioners of the land-office.

[L. 1817, 301, § 1.]

Their
duties.

§ 5. It shall be the duty of the commissioners of the canal fund, to manage, to the best advantage, all things belonging to that fund; to recommend from time to time to the legislature, the adoption of such measures as may be thought proper by them for the improvement of the fund; and to report to the legislature, at the opening of every session thereof, the state of the fund.

[L. 1817, 301, § 1.]

Advances
for repairs.

§ 6. The commissioners shall advance to each of the superintendents of canal repairs, such sums as in their opinion shall be required in the execution of their duties, not exceeding at any one time, five thousand dollars.

[L. 1827, 223, § 13.]

¹ The reference is to the Constitution of 1823, now abrogated.

§ 7. The commissioners of the canal fund shall, from time to time, apply the surplus revenues of the canal fund, after paying the interest of the canal debt, to the purchase of canal stock of this state, if in their opinion such stock can be purchased upon advantageous terms. And the certificates of stock so purchased shall be cancelled.

TITLE 2.
Application of surplus revenue.

[L. 1826, 361, §§ 21 and 22.]

§ 8. Whenever the commissioners shall be unable to purchase canal stock upon terms by them deemed advantageous to the state, they may invest such surplus revenues in the public stocks of the United States, or any public stock created by the corporation of the city of New York or Albany, and from time to time may re-invest the interest or dividends upon such investments, as part of such surplus revenues.

[L. 1826, 361, § 23. *Qu.*, whether this was not abrogated by L. 1851, ch. 485.]

§ 9. Whenever the commissioners of the canal fund shall be authorized to borrow money upon the credit of the state, they shall, previous to any loan to be made by them, give notice that sealed proposals will be received to a given day, and until a certain hour of such day, to be named in the notice; which notice shall be published in two newspapers, in each of the cities of New York and Albany, and continued for two weeks daily in the New York papers, and at least twice a week in the Albany papers. And the proposals received by them shall not be opened, until the hour specified in such notice.

Notice for loans. [1851]

[L. 1821, 26, § 7.]

§ 10. The commissioners of the canal fund shall have power to allow all claims for monies paid by the canal commissioners, or any one of them, or by an engineer or agent in their employment, or by any superintendent or toll collector, for judgments recovered against them or either of them, in any suit instituted for any act done by them, under the canal laws of this state, or for costs and expenses incurred in any such suit, or in any suit instituted by them or either of them, under such laws.

Power to allow certain claims.

[L. 1827, 222, § 8.]

§ 11. The commissioners of the canal fund, before they shall allow any such claim, shall examine into the circumstances under which such costs shall have been incurred, or judgments recovered; and shall allow such claim, or such part thereof as they shall deem to be reasonable, if they shall be satisfied that such commissioners, or other officers making such claims, have been subjected to such costs, expenses or judgments, while acting in good faith in the discharge of their duty, under any law of this state.

Proceedings.

[L. 1827, 222, § 8.]

§ 12. The commissioners of the canal fund shall have power, in their discretion, to direct the attorney-general, or to employ other counsel, to take all necessary steps in defending the interest of the state, in all suits and proceedings before the supreme court, or any other court, which may arise under the laws respecting the canals, or from the appraisalment of damages thereon.

To defend suits.

[L. 1827, 222, § 9.]

TITLE 2.
Charges on
the canal
fund.

§ 13. All monies expended in the construction, reparation or improvement of the canals now authorised by law, or allowed or expended by the commissioners of the canal fund under this title; or expended by the commissioners of the canal fund, the canal commissioners, or other officers or agents employed on such canals, pursuant to any law of this state, together with the compensation to such officers respectively (including the salaries of the canal commissioners), shall be charged to the canal fund; and the comptroller shall also charge to the canal fund, from time to time, so much for the services of the clerks in his office, devoted to the accounts and revenues of the canals, as in his opinion shall be just and proper.

[L. 1827, 4, § 3.]

L. 1831, Chap. 286—An act for the improvement of the canal fund.

Deposit of funds. SECTION 1. The commissioners of the canal fund may deposit the monies belonging to the said fund with any safe incorporated monied institutions or banking associations, in this state, and may make such contracts with such institutions for the interest on and duration of such deposits as shall be most promotive of the interests of said fund. [*Thus amended by L. 1852, ch. 370, sub. nom., "section 16 of ch. 9 of tit. 2 of part 1, of the R. S."*]

Report of same. § 2. The said commissioners shall, in their annual report to the legislature, specify the institutions holding all such deposits, the amount of each, and the rate of interest paid thereupon.

L. 1837, Chap. 451—An act in relation the canals.

Superintendents' estimates. § 7. Before any advance of money shall be made to a superintendent of canal repairs by the commissioners of the canal fund, he shall make out a detailed statement, in such form as the said commissioners shall prescribe, of the several anticipated objects of expenditure on the line of canal under his charge.

Id. § 8. If the said estimate shall be filed in the office of the comptroller, with the certificate thereon of the acting canal commissioner, stating that in his opinion, the whole amount, or if less than the whole amount, what portion of the said estimate should be advanced, the commissioners of the canal fund may make advances on the same, in such sums, and as often as they may deem necessary; provided such advances shall not exceed the amount certified by the commissioner.

[For the remainder of this act, see statutes following art. 9, *post*, of tit. 9 of this chap. (9).]

L. 1848, Chap. 215—An act in relation to the funds appropriated for the canals.

Provision in case of unavailable funds. SECTION 1. If any of the stocks or unavailable funds that have been appropriated towards the completion or improvement of any of the canals, shall be unavailable to meet the contracts now made, or that may hereafter be made upon the faith of such appropriations, it shall be lawful for the commissioners of the canal fund to borrow upon the credit of such stocks and unavailable funds, at a rate of interest not exceeding seven per centum per annum, an amount not exceeding the nominal amount thereof, to be repaid from the avails of such stocks or unavailable funds, and pledging the faith of the state to make good any deficiency remaining thereon; and the comptroller is hereby authorized to issue stock therefor, in the same manner as is provided by law for the issue of stock in other cases. [*Thus amended by L. 1849, ch. 230.*]

L. 1853, Chap. 36—An act to provide for certain expenses chargeable upon the canal fund.

Expenses of canal department, how paid. SECTION 1. The expenses of the necessary furniture, books, bookbinding, blanks, printing, except such printing as is provided for by the act entitled "An act to provide for the public printing," passed March fifth, eighteen hundred and forty-six, postage, express transportation, light, and all other necessary incidental expenses of the canal department, shall be paid by the treasurer, on the warrant of the auditor of the canal department, out of any canal funds in the treasury.

[Section 2 relates to the compensation, etc., of canal collectors and weighmasters. Offices abolished by L. 1883, ch. 165.]

Penalties remitted and tolls refunded, how paid. § 3. Penalties remitted by the canal board and tolls refunded, if not paid by a collector of tolls, may be paid by treasurer, on the warrant of the auditor of the canal department, out of any canal funds in the treasury

TITLE III.

TITLE 4.

[196]

Of the Literature Fund.

- Sec. 1. Designation of the fund.
2. Capital of literature fund, how to be invested.

SECTION 1. That portion of the funds of this state, heretofore known and distinguished as the "Literature Fund," shall continue to be known and distinguished by that name. Literature fund.

[L. 1827, 237, § 3. See Const., art. IX, § 1.]

§ 2. Whenever any money belonging to the capital of the literature fund, shall be paid into the treasury, the comptroller shall invest the same in such of the public stocks, or subscribe the same to such of the public loans of this state, as the regents of the university shall deem most advantageous. Principal how invested.

[L. 1832, ch. 8, § 1. The regents of the university shall, within sixty days after the passage of this act, transfer to the comptroller all the stock, money, securities and property belonging to the literature fund, in their possession or under their control.]

TITLE IV.

Of the Common School Fund.

- Sec. 1. Designation and description of the fund.
2. Moneys to be annually distributed as the revenue of the common school fund.
3. When, how, and to whom such moneys payable.
4. Capital of the school fund, how to be invested.
5. Duty of public agents to receive such investments, and upon what terms.
6. Care of lands belonging to school fund, vested in commissioners of land-office.

TITLE 4.
Common
school
fund.

SECTION 1. The proceeds of all lands which belonged to the state on the first day of January in the year one thousand eight hundred and twenty-three (except such parts thereof as may have been or may be reserved or appropriated to public use or ceded to the United States), together with the fund denominated the common school fund, are to be and remain a perpetual fund, the interest of which is to be inviolably appropriated and applied to the support of common schools throughout this state.

[See Const., art. IX, § 1.]

Distribu-
tion of its
revenue.

§ 2. There shall be annually distributed as the revenue of the common school fund, and according to the apportionment of the superintendent of common schools, then in force, the sum of one hundred thousand dollars, for the support and encouragement of common schools, to be denominated "School Monies;" and as often as such revenue shall be increased by the sum of ten thousand dollars, such increase shall be added to the sum to be distributed.

[L. 1826, 350; L. 1819, 187, § 3.]

When pay-
able.

§ 3. The monies so to be distributed shall be payable on the warrant of the comptroller, on the first day of February in every year, to the treasurers of the several counties, and to the chamberlain of the city of New York.

[L. 1824, 387, § 1.]

Capital
how in-
vested.

[197]

§ 4. Whenever there shall be in the treasury any money belonging to the capital of the school fund, it shall be the duty of the comptroller to invest the same in such of the public stocks of this state, of the United States, or of the cities of New York and Albany, as the comptroller and the superintendent of common schools shall deem most advantageous to the school fund; or if they shall deem it more for the interest of such fund, the comptroller may invest such money in the next loan thereafter to be made by the commissioners of the canal fund, or by any other public agent, who may be authorized to borrow monies and issue certificates of stock upon the credit of the state.

[L. 1823, 47, § 2; L. 1824, 333, § 1.]

ib.

§ 5. It shall be the duty of such commissioners or public agent, to receive all investments of any portion of the capital of the school fund, at the same rate and on the most favorable terms to the school fund, upon which money shall be borrowed and stock issued at the time of such investment; and certificates of stock shall be taken for such investments in the name of the comptroller, in trust for the school fund, which trust shall be specially expressed in every certificate.

[L. 1823, 47, § 2; L. 1824, p. 333, § 1.]

Care of the
lands.

§ 6. The care and disposition of all lands belonging to the school fund, shall be vested in the commissioners of the land-office.

L. 1840, Chap. 294 — An act in relation to the United States deposit fund and the common school fund.

Moneys may be loaned. SECTION 1. Whenever there shall be moneys in the treasury belonging to the capital of the school fund, the comptroller, by and with the consent of the superintendent of common schools, shall be authorized to invest the same on bond and mortgage, in such sums and in such manner as the comptroller and superintendent shall deem most advantageous to the fund.

Loans, how to be made. § 2. Such loans shall be made by the commissioners of loans, appointed under the act authorizing the loan of certain moneys belonging to the United States deposit fund, chapter one hundred and fifty, of the laws of eighteen hundred and thirty-seven; and the comptroller shall prescribe the forms of the securities to be taken, the terms and conditions of payment, and all necessary regulations for the security and management of such loans.

Additional security required of commissioners. § 3. The commissioners making such loans shall, on being required by the comptroller, execute such additional bond, with sureties, for the due performance of their duties under this act, as may be prescribed by the comptroller; which bond and securities shall be approved in the manner prescribed in the above mentioned act, chapter one hundred and fifty, of the law of eighteen hundred and thirty-seven; and all the provisions of the said act, of the act amending the same, chapter one hundred and ninety-three, of the laws of eighteen hundred and thirty-eight, and of the act, chapter two hundred and thirty-seven, of the laws of eighteen hundred and thirty-eight, shall, as to the loans therein authorized, and the duties, powers, liabilities, and compensation of the commissioners, be held to extend and apply to them, in regard to the loans authorized by this act.

Duty of supervisors. § 4. The supervisors of the several counties in which such loans may be made, shall possess the same powers, and perform the same duties, in relation to loans under this act, as they are empowered and required to do in relation to loans made from the United States deposit fund.

Moneys advanced from general fund to be reimbursed. § 5. Whenever the principal of any moneys loaned under the acts relating to the United States deposit fund, shall be paid into the treasury, such sum shall first be applied to the reimbursement of the moneys advanced from the treasury on account of a loan from the general fund to the United States deposit fund, to make up the amount formerly directed to be lent in the several counties; which application of such payments shall continue until the above mentioned advance shall have been fully reimbursed, after which all other such payments shall be applied to the reimbursement of the loan made by the commissioners of the canal fund for the same purpose, in the manner now prescribed by law.

L. 1845, Chap. 184 — An act to increase the capital of the common school fund.

Capital, how increased. SECTION 1. The sum of eighty-four thousand three hundred and fifty-eight dollars and fifteen cents, which has been appropriated to the state under the provisions of the act of congress, entitled "An act to appropriate the proceeds of the sales of the public lands and to grant pre-emption rights," passed September 4th, 1841, which is now deposited in the Commercial Bank of Albany, and the interest thereof, is hereby appropriated to the use and benefit of the common school fund; but said moneys appropriated by virtue of this act are hereby received only in deposit, and liable to be refunded to the treasury of the United States, whenever congress shall direct by law.

L. 1847, Chap. 8 — An act appropriating the annual revenues of the common school and United States deposit funds.

Revenues of the common school and U. S. deposit funds, how distributed. SECTION 1. There shall be paid from the treasury, on the warrant of the comptroller, out of the revenue of the common school fund, to the treasurers of the several counties, and the chamberlain of the city of New York, the sum of one hundred and ten thousand dollars, for the use of schools, according to the apportionment made by the superintendent of common schools. There shall be paid in like manner, and for the like purpose, out of the annual income of the United States deposit fund, the sum of one hundred and ten thousand dollars, on the conditions prescribed in the second section of chapter two hundred and thirty-seven, of the laws of one thousand eight hundred and thirty-eight. And there shall also be paid, in the same manner, on account of district school libraries, or for the payment of teachers' wages, or for the purchase of maps, globes or scientific apparatus in the discretion of the inhabitants of the several school districts qualified to vote therein, the sum of fifty-five thousand dollars, and for the payment of the salaries of county superintendents of common schools in arrears, on the conditions prescribed in chapter two hundred and sixty, of the laws of one thousand eight hundred and forty-one, fourteen thousand dollars.

L. 1847, Chap. 258 — An act appropriating the annual revenue of the literature and United States deposit funds of the years 1847 and 1848.

Amount to be yearly added to common school fund. § 7. The sum of twenty-five thousand dollars of the income of the United States deposit fund set apart by the Constitution, together with the residue thereof not herein otherwise appropriated, shall be annually added to the capital of the common school fund, and the comptroller is hereby authorized and required to invest such surplus moneys, in like manner as he is now authorized to invest moneys of the common school fund.

L. 1849, Chap. 301 — An act appropriating the revenue of the literature and United States deposit fund.

[Sections 1-7 omitted as temporary.]

Comptroller to invest certain moneys. § 8. The sum of twenty-five thousand dollars of the income of the United States deposit fund, set apart by the Constitution together with the residue thereof not hereby otherwise appropriated, shall be annually added to the capital of the common school fund, and the comptroller is hereby authorized and required to invest such surplus moneys in like manner as he is now authorized to invest moneys of the common school fund.

L. 1849, Chap. 382 — An act to amend chapter 480 of session laws of 1847, entitled, etc.

Interest to be paid for school fund in treasury. § 13. Whenever any money is paid into the treasury of the state for or on account of the common school fund, it shall be the duty of the comptroller to credit the common school fund with interest on the sum so paid in, at the rate of six per cent. per annum for the time the same shall remain in the treasury.

[The remainder of this act belongs elsewhere.]

L. 1851, Chap. 536 — An act appropriating the revenues of the literature and United States deposit funds.

Academies; Delaware Academy. SECTION 1. There shall be paid annually by the treasurer, on the warrant of the comptroller, out of the revenues derived from the literature fund, to the several academies under the supervision of the regents of the

university, the sum of twelve thousand dollars, and the further sum of twenty-eight thousand dollars from the income of the United States deposit fund, being in all forty thousand dollars, according to an apportionment to be made by the regents among the said academies, in proportion to the number of pupils in each who shall have pursued the requisite studies to enable them to share in said distribution; there shall be paid to the Delaware Academy in each of the years 1851 and 1852, the sum of two hundred and eighty-nine dollars and fifty cents, being the interest at six per cent. on four thousand eight hundred and twenty-five dollars of state stock held by the comptroller in trust for said academy, being part of an appropriation for said academy by chap. 170, of the laws of 1819.

State Normal School. § 2. There shall be paid annually, in the manner provided by chapter three hundred and eleven of the laws of one thousand eight hundred and forty-four, out of the income of the United States deposit fund, the sum of ten thousand dollars, for the support and maintenance of the State Normal School, and the sum of one hundred and fifty dollars is hereby appropriated to the State Normal School, for the purchase of instruments to be used in giving instruction in engineering and surveying.

Text-books and apparatus; meteorology. § 3. There shall be paid by the treasurer, on the warrant of the comptroller, out of the income of the literature fund, to the regents of the university, three thousand dollars annually, to be assigned by them to such academies, subject to their visitation, for the purchase of text-books, maps and globes, or philosophical or chemical apparatus, as may apply for a part of the money for that purpose, on the terms prescribed in the second section of chapter one hundred and forty of the laws of one thousand eight hundred and thirty-four.

To the regents of the university, to be applied to defray the expense of continuing the meteorological observatories, as stated in the fifth section of chapter three hundred and one of the laws of one thousand eight hundred and forty-nine, the sum of one thousand five hundred dollars annually.

Treasurer to pay to trustees of one or more academies ten dollars for each pupil. § 4. The treasurer shall pay yearly, on the warrant of the comptroller, out of the income of the United States deposit or literature funds, not otherwise appropriated, to the trustees of one or more academies in each county of the state, as the regents of the university shall designate, the sum of ten dollars for each scholar who shall have been instructed in such academy during at least one-third of the academic year, in the science of common school teaching. [*Thus amended by L. 1852, ch. 235.*]

Money may be paid to certain academies not having complied strictly with the law. § 5. The regents of the university shall have power, in their discretion, to certify to the comptroller, as entitled to receive appropriations under chapter one hundred and seventy-four of the laws of one thousand eight hundred and forty-nine, any academy or academies which shall have given instruction in the science of common school teaching during the year eighteen hundred and fifty, although such academy or academies may not have strictly complied with the terms of said law; and the certificate of the regents shall be to the comptroller his sufficient warrant for the payment of moneys so certified to be due to any academy.

L. 1882, Chap. 108—An act making appropriations to increase the capital of the common school fund, and to supply deficiency in the revenue of said fund.

\$500,000 appropriated to increase fund. SECTION 1. The sum of five hundred thousand dollars is hereby appropriated from the surplus revenue of the general fund in the treasury on the thirtieth September, eighteen hundred and eighty-one, for the purpose of increasing the capital of the common school fund, and the comptroller is hereby authorized to invest the sum hereby appropriated in securities now sanctioned by law.

[Section 2 temporary.]

[Supplementary Title.]

TITLE 4^A.*Of the United States Deposit Fund.***L. 1837, Chap. 2—An act accepting the deposits of certain moneys belonging to the United States.**

Money to be received on deposits. SECTION 1. This state agrees to receive in deposit for safe keeping, its share of the surplus money of the treasury of the United States of America, under the thirteenth section of the act of congress, entitled "An act to regulate the deposits of the public money," passed June 23, 1836, upon the terms, conditions and provisions in said act contained; and the faith of the state is hereby inviolably pledged for the safe keeping and repayment of all sums of money thus received, from time to time, whenever the same shall be required by the secretary of the treasury of the United States under the provisions of said act.

Duty of the treasurer. § 2. The treasurer of this state is hereby authorized to receive from time to time, the proportions of the public money to be deposited with this state, and safely to keep the same for the state, as the public funds of this state are kept, until otherwise directed by law; and he is authorized to sign and deliver to the secretary of the treasury of the United States, certificates of deposit, to be countersigned by the comptroller, for such sums as may be received in deposit; by which certificates the faith of the state shall be pledged for the safe keeping and repayment of all sums of money so received, whenever the secretary of the treasury from time to time shall require the same to be repaid, under the provisions of the act of congress aforesaid.

Money how and where to be deposited. § 3. The seventh section of title four of chapter eight of the first part of the Revised Statutes, is so far modified as to permit the treasurer to deposit the moneys which may from time to time be received by him under this act, in such bank or banks as in the opinion of the comptroller and treasurer shall be secure, and pay the highest rate of interest to the state for such deposit, until arrangements are made for the permanent investment of said moneys. All agreements for these deposits shall be in writing, one copy of which shall be filed in the comptroller's office; and the provisions of title third of chapter eight of the first part of the Revised Statutes, prescribing the duties of the comptroller in relation to moneys in the treasury, and the provisions of title four of the same chapter, prescribing the duties of the treasurer in relation to moneys in the treasury, shall apply to the moneys which may be deposited in any bank or banks by virtue of this act.

Duty of the governor. § 4. The governor of this state is hereby required to transmit a copy of this act, exemplified by the secretary of this state, to the secretary of the treasury of the United States, as soon as may be after its passage.

L. 1837, Chap. 150 — An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping.

Money how apportioned. SECTION 1. Such share of the surplus money of the treasury of the United States, as has been or shall be deposited with this state for safe keeping, under the thirteen section of the act of congress, entitled "An act to regulate the deposits of the public money," passed June 23, 1836, shall be apportioned among the several counties of this state, according to the population thereof, as ascertained by the last state census, for the purpose of being loaned therein in the manner hereinafter directed in this act.

3 N. Y., 400; 2 Sandf., 327.

Commissioners how appointed. § 2. The governor shall nominate, and with the consent of the senate shall appoint two reputable inhabitants resident in each of the counties of this state, who shall be commissioners for loaning the moneys mentioned in the preceding section, in the several counties for which they shall respectively be appointed, and who shall hold their offices for the term of two years.

7 Barb., 33.

Bond how given and approved. § 3. The commissioners of each county respectively, before they enter upon the discharge of the duties of the said office, shall execute separate bonds to the people of the state of New York, with two or more sufficient sureties, to be approved of by at least two of the judges of the court of common pleas and the clerk of their respective counties, signified by endorsing their approbation on the back of the bond, which bond shall be in such penalty as the comptroller shall direct for such county, and conditioned for the true and faithful performance of the duties of their office without favor, malice or partiality.

Oath to be on bond and both filed in comptroller's office. § 4. Each commissioner shall respectively take the oath of office prescribed in article three of title six of chapter five of the first part of the Revised Statutes, before one of the officers authorized in said article to administer such oaths; which oath shall be endorsed on the said bond and signed by the officer before whom the same shall be taken, and the bond so endorsed shall be filed in the office of the comptroller; and, in case of the forfeiture of any such bond the comptroller is hereby directed to cause the same to be put in suit.

Style of commissioners. § 5. The commissioners of the several counties to be appointed in pursuance of this act shall respectively be known and distinguished by the name and style of "the commissioners for loaning certain moneys of the United States of the county," of which they are respectively commissioners, and they shall be named and described by such name and style in all legal and other proceedings which may be had under the provisions of this act.

Actions brought by commissioners. § 6. Actions may be brought by the said commissioners upon any contract lawfully made with them or their predecessors in their official character, and to recover damages for any injuries done to their rights or to the property in their charge, or which was in the charge of their predecessors as such commissioners; and all such actions shall be brought by the said commissioners in the name of their respective offices.

Suit not to abate by death, etc., of com'rs. § 7. No suit commenced by the said commissioners shall be abated or discontinued by the death of such commissioners, their removal from the county or their removal from or resignation of their offices, or the expiration of their terms of office; but such suit shall be continued and prosecuted by their successors in office in like manner as if the commissioners who commenced such suit had continued in their said offices.

Recovery against commissioners how settled. § 8. Wherever in any suits by or against the said commissioners, any debt, damages or costs, shall be recovered against them, the comptroller, in case he shall be satisfied that such recovery was not had against them in consequence of any default or misconduct on their part, may direct them to pay the amount so recovered out of the interest of the moneys to be loaned in pursuance of this act, and shall be authorized to allow to the said commissioners the amount so paid in their official accounts.

Money how drawn from the treasury; how to be loaned; notice to borrowers; applications to be entered in minute book, etc.; in what case to be abated; in what case certificates to be given to borrowers; interest when to be deducted. § 9. Whenever the said commissioners shall have respectively taken the oath of office required in this act, and shall have filed with the comptroller such bond as by this act is directed, the comptroller and treasurer shall authorize the said commissioners in such manner as they, the said comptroller and treasurer, shall direct to draw for their respective proportions of the moneys mentioned in the first section of this act; and the

said commissioners shall loan out the same to the inhabitants of their respective counties on mortgage on improved lands in the same county owned by the borrower, and apportion the same among the cities, towns and wards of their respective counties according to the population thereof, as ascertained by the last census, and shall loan out the said moneys to the said inhabitants of the several cities, towns and wards in their respective counties on mortgage on improved lands in the same county owned by the borrower: but if the whole sum apportioned to any city, town or ward should not be applied for by the inhabitants of said city, town or ward, and taken up as provided for by this act, then the said sum, or the excess not applied for, shall be apportioned by the said commissioners among the other cities, towns and wards applying for the same, according to their respective population: They, the said commissioners, first giving public notice in writing by posting up such notice on the outward door of the court-house in the county, or of the building where the court of common pleas was then last held in the same county, and at one public place in each town and ward in said county, and by causing the same to be published at least in one public newspaper in their respective counties, wherever there are any printed in the county, that at a certain place to be designated in such notice, and on a certain day at least fifteen days after the said notice shall be so posted and published, they will be ready to receive applications from borrowers, according to the directions of this act; and as on that day borrowers make their applications for loans, their names and the sums they apply for shall be entered in the minute book of proceedings hereinafter mentioned: and every borrower shall be accommodated according to the priority of his application, subject to the proviso hereinafter mentioned, if there should be no reasonable objections to the title and value of the lands offered to be mortgaged by him. But if the amount of the applications of the borrowers in each city, town and ward made according to the directions of this act upon the first day shall exceed the sum apportioned to such city, town and ward, then and in such case the sums so applied for by such borrowers shall be proportionably abated; and all applications shall be received from borrowers on the first day which shall be designated in pursuance of this section for that purpose, for all the moneys mentioned in the first section of this act to be apportioned among the several counties of this state as therein prescribed; and in case the whole amount to be loaned to the borrower shall not be paid to him at the time of the execution of his mortgage, the said commissioners shall give to such borrower a certificate specifying the amount remaining unpaid and that the same shall be paid to such borrower on demand after the same shall have been received by such commissioners; and any interest which shall accrue on the sum so certified from the time of the execution of such mortgage to the time the same shall be received by the said commissioners, shall be deducted from the interest which shall accrue on the amount loaned to such borrower; and the mortgages taken in pursuance of this act shall be deemed good and valid incumbrances for the whole amount specified in said mortgages from the day of the date thereof, in like manner as if the whole amount had been paid to the borrower on that day.

Commissioners to be satisfied as to value, and that borrower has a title in fee. § 10. The said commissioners respectively, before they accept a mortgage on lands for any of said moneys, shall be satisfied that the borrower has a title in fee to such lands, and that the same are free and clear of all incumbrances and are worth double the amount of the sum loaned, exclusive of buildings and of the value of the rent in perpetuity if any charged thereon; and wherever the said commissioners shall deem it necessary they shall, in addition to the examinations for that purpose hereinafter directed to be made, require the borrower to satisfy them by proper evidence that he possesses an estate in fee in such lands free and clear of all incumbrances.

21 Barb., 570.

In what sums money to be loaned. § 11. The said commissioners shall loan the said moneys in sums not exceeding the sum of two thousand dollars, except in the

city of New-York, and in that city in sums not exceeding the sum of five thousand dollars; and in the several counties, except in the city of New-York, in sums not under two hundred dollars, and in that city not under five hundred dollars, unless the proportion be less to any one person by means of more than the amount apportioned to any county having been applied for.

21 Barb., 570.

Interest when payable; payment of principal; when permitted. § 12. The interest of the moneys to be loaned as aforesaid, shall be payable annually on the first Tuesday of October in each and every year, and the said moneys shall be loaned on a credit of not exceeding five years, subject, however, to the condition of being called in, the one half on a previous notice of one year, and the remainder on a previous notice of two years; and no borrower shall be permitted to pay any part of the principal moneys loaned on any day other than the first Tuesday of October in any year, unless so many shall offer payment on that day that the said commissioners cannot during the day receive the whole sums offered to be paid, in which case they shall continue to receive until all who on that day offered have paid the moneys so offered. But the loan commissioners, in their discretion, may at any time receive the principal sum loaned on any mortgage, together with the interest which would become due thereon upon the first Tuesday of October then next, and on such payment discharge the securities taken therefor; and whenever any moneys loaned under the act hereby amended, shall be paid to the commissioners of loans, the same shall be paid into the treasury and be applied to the reimbursement of the loan made to the treasury by the commissioners of the canal fund, until the whole of the said loan shall be reimbursed; and the moneys received from time to time by the commissioners of the canal fund, in payment of the said loan to the treasury, shall be re-invested and managed by the said commissioners in trust for the holders of the outstanding stock issued for the construction of the Erie and Champlain canals, according to the provisions of the act entitled "An act respecting navigable communications between the great western and northern lakes and the Atlantic ocean," passed April 15, 1817. [*Thus amended by L. 1838, ch. 193.*]

21 Barb., 570.

In what case commissioners to be removed; new appointment; commissioners may be summoned to answer charges, and removed. § 13. In case any of the said commissioners shall remove out of the county, die, or neglect or refuse to perform the duties required of him in this act, or shall neglect or refuse to give additional security when required as hereinafter provided, or shall be guilty of any misconduct in his said office, upon report or complaint made thereof to the governor, the governor shall, in case of such neglect of said commissioner remove him from his said office; and also, as well as in case of such death or removal, appoint some other reputable inhabitant of said county as such commissioner, who shall hold his office and discharge the duties thereof until the next meeting of the senate; and in case the said commissioner shall be guilty of any misconduct in his said office, then the governor shall, upon complaint as aforesaid, summon the person so charged with improper conduct to appear before him, and shall hear and determine the subject-matters of said complaint; and on being satisfied of the truth thereof, the governor is hereby required to remove such commissioner, and to appoint some other reputable inhabitant of said county in his stead, who shall hold his office and discharge the duties thereof until the next meeting of the senate.

21 Barb., 506.

Commissioners may resign; new appointment. § 14. Any of the said commissioners who shall have faithfully discharged the duties of the said office may resign the same, and the governor, with the consent of the senate, shall appoint a fit and proper person to supply any vacancy occasioned by such resignation, or in any other manner, whenever the same shall happen; and every person who shall be appointed in pursuance of this or the next preceding section, shall do the like

acts as other commissioners are by this act required to do, and shall be subject to the like penalties, restrictions and regulations, and receive the same compensation and advantages as the other commissioners are liable, subject or entitled to.

Commissioners to retain amount of disbursements in case of sale. § 15. The said commissioners, in case of a sale of any lands mortgaged to them by virtue of this act, may retain in their hands out of the moneys for which the said lands are sold, besides the principal and interest, as hereinafter directed, the amount of the disbursements paid out by them on account of the advertisements and sale, and on account of the fees paid for searches and taking affidavits, and their compensation for serving said advertisement, and the sum of five dollars for their services in preparing the notices of such sale and superintending the same: But where the moneys due on the mortgage shall be paid before a sale of the mortgaged premises, the said commissioners shall not be authorized to charge or receive more than the amount of the disbursements and two dollars for their services. [*Thus amended by L. 1863, ch. 73.*]

To report to comptroller. § 16. The said commissioners, on the first Tuesday of December next, and on the first Tuesday of December in every year thereafter, and also whenever the comptroller shall require it to be done, shall render a full and detailed account to the comptroller, in such form as he shall prescribe, of all the moneys by them received, and of the sales of all lands by them made by virtue of this act, and of all deficiencies which may happen by such sales or otherwise; and whenever it shall appear by the account of any of the commissioners that lands have been purchased by them, or any of them, for the people of this state, the comptroller shall make a report thereof to the legislature at their next session.

Moneys remaining four weeks in hands of commissioners, how loaned. § 17. If any of the moneys authorized to be loaned by this act, shall remain in the hands of the commissioners for want of borrowers, for the space of four weeks after the first day appointed for loaning the same, the said commissioners, in every such case, may loan out such moneys on like security as aforesaid, by mortgage on improved lands in the same county, to any person who will borrow the same, in any sum, in the city and county of New York, not exceeding ten thousand dollars, and in the other counties of this state in any sum not exceeding five thousand dollars.

Commissioners to pay interest to state treasurer; deduction. § 18. The said commissioners shall, on or before the first Tuesday of November in every year, pay to the treasurer of this state the interest of the money committed to their charge, respectively, by virtue of this act at the rate of six per centum per annum; subject, however, to the following deduction: The said commissioners may retain, as a compensation for their services, out of said interest in each and every year after the following rates: Upon twenty-five thousand dollars or a less sum, so committed to their charge, three-quarters of one per centum; upon the further sum of twenty-five thousand dollars, or less, half of one per centum; and where the whole sum shall not exceed fifty thousand dollars, half of one per centum, except in the city and county of New York; in which city and county the commissioners shall, upon all sums exceeding fifty thousand dollars, only be permitted to retain one-quarter of one per centum. [*Thus amended by L. 1880, ch. 517, sub nom., "section 20, ch. 9, tit. 16, part 1 of the R. S., entitled 'of the United States Deposit Fund.'* The error corrected by L. 1885, ch. 267, § 6.]

Evidence of title to be given to purchaser at sale. § 19. Upon every sale of lands the commissioners shall fill up the blanks in one of the loose sheets of bank mortgages to be provided by them as in this act is directed, like to the original mortgage, and attest the same as a true copy under their hands and seals, and deliver the same, together with the said affidavits and the deed herein mentioned, in-

stead of the original mortgage, to the purchaser, as the evidence of his title. [*Thus amended by L. 1863, ch. 73.*]

36 How. Pr. R., 147.

Form of bond. § 20. The bond to be given by the said commissioners shall be in substance as follows, to wit: "Know all men by these presents, that we are held and firmly bound unto the people of the state of New York, in the sum of _____ to be paid to the said people; for the payment whereof we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the _____ day of _____ in the year one thousand eight hundred and _____. Whereas the above bounden _____ has been appointed one of the commissioners for loaning certain moneys of the United States, for the county of _____: Now the condition of this obligation is such, that if the above bounden _____ shall well, truly and faithfully perform the duties of said commissioner pursuant to the act entitled 'An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping;' and shall discharge his said duties without favor, malice or partiality; then this obligation to be void, otherwise to remain in full force and virtue. Sealed and delivered in the presence of _____."

Commissioners to procure books, blank mortgages, etc. § 21. The said commissioners respectively are hereby authorized and required, under the directions of the comptroller, to procure such books with blank forms, and such printed mortgages with blanks, as will be necessary under the provisions of this act: the expense of which shall be a charge on the interest to be received on the moneys authorized to be loaned by this act.

Interest on mortgage from its date. § 22. The said commissioners shall exact interest on the moneys loaned by virtue of this act, from the day of the date of the respective mortgages, except as is provided in the ninth section of this act.

When one commissioner may execute a deed. § 23. In all cases where a sale of lands shall be made in pursuance of the provisions of this act, and a vacancy shall exist in the office of one of the commissioners in the county when such sale shall be had, it shall be lawful for the remaining commissioners to execute a deed in pursuance of this act, for the lands so sold, and to fill up and deliver, attested under his hand and seal as a true copy, one of the loose sheets of mortgages, in pursuance of section nineteen of this act, and also to deliver said affidavits, all of which shall have the same effect as if executed and done by two commissioners for such county. [*Thus amended by L. 1863, ch. 73.*]

21 Barb., 506, 570.

Commissioners to attend office to receive money; see § 41. § 24. The commissioners shall respectively attend their office every year, to receive the moneys directed by this act to be paid to them, upon the first Tuesday of October, and thereafter on the Tuesday and Wednesday of each week for the space of three weeks.

Commissioners to examine lands and titles, etc; oath of mortgagor; examination of borrower to be entered in minute-book. § 25. The said commissioners, respectively, before they accept any mortgages on lands for any of the said moneys, shall first view the lands so offered to be mortgaged, or make due inquiry respecting the value thereof, and shall examine the titles thereto by perusing the deeds, patents, surveys and other writings and conveyances by which the same are held; and the said commissioners respectively shall, and they are hereby empowered to administer to all persons applying to borrow any of the said moneys, the following oath, viz.: "I, _____ do swear, that I am *bona fide* seized in fee simple of the lands, tenements and hereditaments by me now offered to be mortgaged, in my own right and to my own use; and that the same have not been conveyed to me in trust, to borrow any sum or sums of money upon the same, for the use of any other person or persons whatsoever; and that the said premises are free and clear from all gifts, grants, sales, mortgages, judgments, liens, and from all other incumbrances whatsoever, to my knowledge and belief:"

and where the lands offered to be mortgaged are subject to a rent in perpetuity, the borrower, in the said oath, may make an exception of such rents. And in order the better to satisfy the said commissioners as to the title and value of what is offered in mortgage by borrowers, they or either of them are hereby authorized and empowered to examine the borrower and witnesses concerning the same, upon oath, and to administer such oath: a brief minute of which examination, and the names of the persons so examined shall be entered in the said minute-book of proceedings.

6 N. Y., 373; 21 Barb., 570.

Deeds of mortgaged premises to be recorded. § 26. No money shall be loaned under this act, unless the title deeds of the real estate offered to be mortgaged as a security for such loan are recorded in those counties where such recording is necessary to render valid the titles to land, and in all other counties, unless such title deeds, if not recorded, shall be deposited with the said commissioners, or one of them, until they shall be so recorded.

Moneys to be loaned at seven per cent; witnesses to mortgage, how minuted, fees therefor, etc. § 27. The said commissioners shall loan out the said moneys according to the direction of this act, at an interest of seven per cent per annum; and the mortgages which shall be taken by the said commissioners, shall be executed in the presence of two or more witnesses, who shall subscribe the same as such witnesses; and the substance thereof shall be minuted in a book by the said commissioners, to be by them kept for that purpose in their respective counties; for the filling up of which mortgage, and the making such minute, the borrower shall pay to the said commissioners the sum of one dollar, and no more: and which mortgage and minute shall be, and each of them are hereby declared to be matter of record; and an attested copy of the said mortgage, if in being, or of the said minute in case the said mortgage is lost, under the hands and seals of the said commissioners, shall be good evidence of the said mortgage in any court within this state.

[Interest reduced to six per cent by L. 1880, ch. 17, post.]

Duty of commissioners in taking security, receiving payments, etc.; release of mortgage; fees therefor; principal moneys to be reloaned. § 28. The said commissioners, at the time of the lending of any of the said moneys, shall take the security for the same by this act required to be taken; and for every sum paid to them they shall give to the person paying the same a receipt, and shall enter one minute of such payment on the back of the mortgage, and another minute thereof in the book of accounts by them to be kept, and that without any fee or reward; and when the whole of the principal and interest due on any mortgage shall be paid to the said commissioners, they shall, if required, give the party making the payment, a release of the mortgage, and shall tear from the same the name and seal of the borrower, and shall make an entry on the margin of the mortgage, and in the margin of the minute made thereof, of the time such release was given, for which release the releasee shall pay the sum of fifty cents, and no more; and whenever any of the said principal moneys shall be paid in as aforesaid, the said commissioners shall, at the end of the annual meeting at which such payment shall be made, compute the whole amount of the principal moneys so paid, and shall then immediately loan out the same in like manner, and upon the like security, as is hereinbefore provided.

35 Hun, 312.

Moneys, books, etc., to be delivered to new commissioners on oath. § 29. Whenever a commissioner shall have been appointed in the place of a former commissioner, and shall have taken the oath of office and filed the bond required by this act, such former commissioner, his executors or administrators, shall, upon demand, deliver to the commissioner so appointed in his place, all the moneys, books and papers that were in such former commissioner's custody belonging to his office, upon oath, before any judge of the court of common pleas; and in case any such commissioner, or his executors or administrators, shall delay or refuse to make such delivery on oath when demanded as aforesaid, the bond of such former commissioner shall be forfeited.

When commissioners to be seized of fee of mortgaged premises; mortgagor to hold possession until sale. § 30. If any borrower shall neglect to pay yearly, and every year, on the first Tuesday of October, or within twenty-three days thereafter, on one of the days on which the commissioners aforesaid are by this act directed to attend their respective offices, the yearly interest due on his mortgage, and also the principal moneys loaned to him when due, then, and in either of these cases, the commissioners of the county where the lands mortgaged by the borrower are situated, shall be seized of an absolute and indefeasible estate in fee in said lands, to them, their successors and assigns, to the uses in this act mentioned, and the mortgagor, his or her heirs or assigns, shall be utterly foreclosed and barred of all equity of redemption of the mortgaged premises, any law, usage, custom or practice in courts of equity to the contrary notwithstanding. But the mortgagor, his or her heirs or assigns, shall be entitled to retain possession of the mortgaged premises until the first Tuesday of February thereafter, and to redeem the same as hereinafter provided.

5 N. Y., 146; 6 Barb., 38; 7 Hill, 431; 36 Barb., 661; 79 N. Y., 54.

Mortgaged premises, when to be advertised; service of notice of foreclosure. § 31. The said commissioners shall, within eight days after the last Wednesday of their attendance as aforesaid, yearly and every year, cause an advertisement to be fixed up at not less than three of the public places of the county where the premises are situated, containing a description of the lands mentioned in the several mortgages foreclosed as aforesaid, and giving notice in such advertisement that on the first Tuesday of February then next, such lands will be sold at the courthouse of the respective counties where the said lands are situated, at public vendue, to the highest bidder; and the said commissioners shall also cause a copy of such advertisement to be published in at least one of the public newspapers printed in the county, if any such there be, and if there be no newspaper published in such county, then in the nearest paper to said county, successively once in each week, until the day of sale. They shall also serve such advertisement at least fourteen days prior to the time therein specified for the sale, upon the mortgagor, or his personal representatives, or upon his executors or administrators, if any shall have been, at the day of the date of such advertisement, duly appointed by the proceedings of any court, and upon such persons as shall by the records of the office of the county clerk of the county in which said premises or any part thereof are situated, appear to be grantees, lessees or mortgagees of the said premises or of any part thereof, and whose conveyance, mortgage, or other evidence of right or title shall be upon said records at the date of the first publication of the said advertisement, and upon all persons having a lien or incumbrance upon the said premises or upon any part thereof, by judgment or otherwise, subsequent to such mortgage, and which lien or incumbrance shall, on the day of the date of said advertisement, appear upon the records of the office of the county clerk of the county in which said premises or any part thereof are situated. Such service shall be made by delivering a copy of such advertisement personally to the person to be served, or by leaving a copy of said advertisement at the dwelling house of the person to be served, in charge of some person then residing therein, who shall have attained the age of twenty-one years, or by enclosing and sealing the copy of such advertisement in an envelope and plainly addressing the said envelope, on the outside thereof, to the person to be served, by his name, as the same appears on said records, at the post-office nearest to his last known place of residence, and by depositing the same so enclosed and sealed in the said envelope, in the post-office nearest the residence of the commissioner or commissioners making such service, and by prepaying the postage thereon; and when the service is made personally or by leaving at the dwelling-house as aforesaid, the same shall be made at least fourteen days before the day of sale in such advertisement mentioned; and when the service is by depositing in the post-office as aforesaid, the same shall be made at least twenty-eight days

before the day of sale mentioned in the said advertisement. [*Thus amended by L. 1863, ch. 73.*]

3 Paige, 390.

Duty of commissioners. § 32. The said commissioners of the respective counties aforesaid shall, on the first Tuesday of February, yearly, expose the lands described in the mortgages foreclosed as aforesaid, to sale at public vendue, and upon such sale they shall convey the said lands to the highest bidder or bidders; and they shall also deliver to such bidder or bidders affidavits of the publication, fixing up and service of the said advertisement; and the purchaser or purchasers thereof shall, if the said advertisement shall have been published and fixed and served, as herein required, hold and enjoy such estate in the said lands as was conveyed to the said commissioners by the said mortgages, clearly and absolutely discharged of and from all benefit and equity of redemption, and all other liens or incumbrances made or suffered after the execution of such mortgage by the mortgagor, his heirs or assigns, and such purchaser or purchasers shall pay the commissioners for drawing and executing such conveyance, the sum of one dollar, and said affidavit of the publication of said advertisement shall be made by the publisher of the newspaper in which the same was inserted, or by his principal clerk, or by his foreman; and said affidavit of such service of such advertisement and of the fixing up of the same, shall be made by any person who made the service or who fixed up the said advertisement. [*Thus amended by L. 1863, ch. 73.*]

79 N. Y., 54.

Sale of land on mortgage to loan commissioners; when commissioners to enter mortgaged premises; and let the same; when to sell; redemption by mortgagor; commissioners not to be interested; waste upon premises; void purchases. § 33. When any land mortgaged to the said commissioners according to this act shall be exposed for sale as aforesaid, and no person shall bid at such sale for the said lands, a sum equal to the amount due on the mortgage for principal and interest, and the expenses of the advertisements and the sale; or if any person to whom any such lands shall at any such sale be struck off, shall not pay for the same, then and in every such case the said commissioners shall enter into and take possession of the said lands and premises, and let the same upon the best terms they can obtain for the benefit of the state, until the third Tuesday in September then next, and shall, on the same third Tuesday in September, sell the said lands and premises at public vendue to the highest bidder, giving at least six weeks' previous notice of such sale, in the manner directed by the two next preceding sections of this act, and if, upon such sale, no person shall bid or offer to give for the said lands and premises, a sum equal to the amount due on the mortgage for principal and interest, including all costs and expenses; or if any person to whom any such lands and premises shall at any such sale be struck off, shall not pay for the same, then and in every such case, the said commissioners shall bid therefor in behalf of the people of this state, a sum not exceeding the amount at which the said lands shall be appraised by the appraisers hereinafter mentioned, in case such bidding shall be necessary to prevent the sale of such premises for a less sum; but if the mortgagor, or his or her heirs or assigns shall, at or before the sale of the mortgaged premises, pay to the said commissioners all such sums of money as shall be due and payable on such mortgage on the first Tuesday of October then next, for principal and interest, and costs and charges of foreclosure, as prescribed by this act, together with the charges of advertising the same, then the title in fee to the said mortgaged premises shall revert to and reinvest in the said mortgagor, his or her heirs or assigns, and the said commissioners shall accept the said sums of money, and the costs and charges aforesaid, and permit the said owner, or his or her heirs or assigns, to take possession of the said mortgaged premises, and to hold the same until default shall be made in payment of any further sum on the said mortgage. The commissioners appointed by virtue of this act, and their successors, in

making any sale of any mortgaged premises by virtue of this act, shall not directly or indirectly be interested in the purchase of the mortgaged premises so sold, or any part thereof. The said commissioners may, at any time before the sale of the mortgaged premises, bring and maintain action to restrain the commission of waste upon the mortgaged premises by the mortgagor, his heirs, devisees, assigns, grantors, or by any other person, and may also, at any time, bring an action to correct any mistake or omission in the description of the mortgaged premises, and may also, after default in said mortgage, maintain an action of trespass against any person who shall, at any time thereafter, and before actual sale of the mortgaged premises, cut or remove therefrom or injure any fence, building or other fixture. All purchases made contrary to the provisions of this section shall be void. [*Thus amended by L. 1878, ch. 233.*]

4 Abb. Ct. App. Dec., 587; 8 Paige, 633; 7 Hill, 431; 16 Hun, 86.

Sale may be postponed to ascertain value of premises. § 34. Whenever any lands shall be advertised for sale by the said commissioners by virtue of this act, it shall be lawful for them at any time before the premises are actually struck off, to postpone the sale at their discretion, for the purpose of inquiring into the value of the premises, and to employ such person or persons as they shall select to appraise the same.

Compensation of appraisers. § 35. The persons employed by the said commissioners to make any such appraisement shall receive a reasonable compensation for the same, to be settled and allowed by the comptroller, and to be paid out of the interest of the moneys to be loaned in pursuance of this act.

When commissioners to bid amount due the state. § 36. If the said lands are appraised at a sum equal to or exceeding the amount due on the mortgage given on said lands to the said commissioners, including all costs and expenses, the said commissioners on the sale of said premises, shall bid therefor in behalf of the people of this state to the amount of the moneys due and costs, in case such bidding shall be rendered necessary to prevent the sale of such premises for a less sum.

When to bid amount of appraisement. § 37. If the said premises are appraised at a less sum than the amount due as aforesaid, the said commissioners shall in like manner bid to the amount of such appraisement and no more; and all purchases of mortgaged premises made by said commissioners at any mortgage or other sale had under their direction, shall be in the name of the people of this state.

Mortgagor to be credited amount of bid. § 38. Whenever any mortgaged premises shall be struck off to the said commissioners for any amount less than the amount of mortgage money, interest and costs, no greater sum shall be credited to the mortgagor or any other person, on account of such sale, than the amount bid for the premises sold, deducting therefrom all costs and charges of sale.

Moneys received on sale, how disposed of; surplus to be paid to mortgagor; principal moneys may be loaned to purchaser of mortgaged premises; assignee of mortgagor to serve notice, etc. § 39. The money for which the mortgaged premises are sold shall upon the sale thereof, be paid to the said commissioners, out of which they shall retain in their hands the amount of the principal then due on the said mortgage, together with the interest which would have been due thereon on the first Tuesday of October next thereafter, if such sale had not been made, and also the expense of the advertisements of sale and the fees paid for searches and taking affidavits, and their compensation for serving advertisements; and the remainder, if any, the commissioners shall pay to the mortgagor, his or her heirs or assigns; and if the purchaser of the said mortgaged premises offers to borrow the principal sum or sums that is or are paid by him or her for said premises, and if the said commissioners are satisfied that the security offered to be given by such purchasers for such loan conforms in all respects to the requirements of this act, such purchaser shall be preferred to any other borrower; and the said commissioners shall not be obliged, for the purposes of this section, to take notice of any assignee of the mortgagor, unless such assignee serves a notice of his right in writing upon

the said commissioners at or before the time of sale, which notice the commissioners shall enter upon the mortgage and in the minute thereof, whenever required by such assignee, such assignee paying twenty-five cents for such entry, and the assignees of the mortgagor shall be preferred according to the priority of their entries of such notice; and on such sale the said commissioners shall retain in their hands no more than the amount of the principal then due on the mortgage, together with the interest which may have accrued thereon, and the fees paid for searches and taking affidavits, and their compensation for serving said advertisements; and if any excess over and above the principal, interest and costs aforesaid shall have been paid to the said commissioners under the provisions of this section, the comptroller is hereby authorized and required to cause such excess to be refunded to the mortgagor, his or her heirs or assigns. [*Thus amended by L. 1863, ch. 73.*]

When commissioners to prosecute mortgagor. § 40. If after any lands are mortgaged according to the directions of this act, there should, in the judgment of the said commissioners, be good grounds (which they shall insert in the minutes of their proceedings) for believing that the mortgagor had no good right or title to the premises mortgaged, or had otherwise broken the covenants contained in his mortgage, so that the moneys, or any part thereof, advanced in loan upon the credit of the mortgaged premises were in jeopardy, it shall and may be lawful for the said commissioners, and they are hereby required to commence an action or actions of debt or covenant upon the said mortgage against the said mortgagor, his or her heirs, executors or administrators, and the same to prosecute to judgment by all lawful ways and means whatsoever, in any court of record, for the recovery of the whole moneys lent upon the mortgage, and the interest then due, and which also should become due for three months next following the judgment, with costs; and the court in which such actions are brought, and the judges or justices thereof in vacation, are hereby authorized and directed to give such short day for the rules of pleading therein, that judgment or a trial and final determination may be had the first term of the court after the term of such court at which the defendant first appeared to the same action.

Offices of the commissioners where kept; when to give notice of first meeting, etc. § 41. The offices of the said commissioners shall be kept at the court-houses of their respective counties; and where there are two court-houses in the county, at such court-house as the said commissioners shall select; and where there is no court-house in the county, then at the place where the court of common pleas shall be held in the same county, or at some convenient place near the same; and the said commissioners shall, as soon as they shall have taken the oath of office and filed the bond required in this act, give such public notice of the first day of their attending their offices for the purpose of receiving applications from borrowers, as is hereinbefore prescribed and required; and they shall duly attend the same on that first day, and on every Tuesday and Wednesday in every week, for the space of four weeks thereafter, if such attendance be necessary.

[Partly repealed by L. 1851, ch. 286, *post.*]

[Section 42 repealed by L. 1886, ch. 593.]

Books of commissioners may be examined; mortgages when to have the effect of a record. § 43. The said commissioners shall permit any person, at reasonable times, to search and examine their books of mortgages, and any other book required to be kept by this act, in their hands and custody, upon paying twelve and an half cents for the search; and the execution of the respective mortgages, and their entry or being placed in the books of mortgages of the said commissioners shall have the like lien, priority, operation and effect as if such mortgages had been duly

recorded in the book of mortgages in the office of the clerk of the county in which the mortgaged premises are situated.

Duty of commissioners in taking and cancelling mortgages. § 44. All mortgages shall be taken by the commissioners by filling up one of the blanks in the book of mortgages to be provided by such commissioners. And no mortgage shall be defaced or torn out of such book; but when the mortgagors pay the whole principal and interest due on the mortgage, the seal and name of the mortgagor shall be torn off; and the commissioners shall proceed in taking the mortgages at the commencement of the book of mortgages, numbering the mortgages as they are taken, and they shall insert the mortgagor's name and the number of his mortgage in an alphabet to be prepared and placed in the book under the letter answering to the mortgagor's surname.

[Modified by L. 1844, ch. 336, *post.*]

Minute book how kept. § 45. The said commissioners shall, in a proper book to be provided for that purpose, minute the substance of each mortgage, that is, the number thereof, the date, the mortgagor's name, the sum lent, and the boundaries of the lands mortgaged; and whenever one of the commissioners has the custody of the book of mortgages, the other shall have the custody of the said minute book; and the mortgagor, for his satisfaction, may examine, or see the minute examined with the original mortgage, and shall, together with the subscribing witnesses, sign such minute.

What entries to be made in it. § 46. The said commissioners shall insert the minutes of their proceedings in such minute book, as follows: First, the day they meet, place, hour, and commissioners present: Second, if any one is absent, they shall at their next meeting minute the cause of his absence: Third, they shall enter the hour that every one applies for the loan of money, and the sum he applies for: Fourth, they shall enter the reasons why a prior applicant did not receive the money according to his application, and the substance of all examinations as to titles and value: Fifth, they shall enter the monies received under this act: Sixth, on the last day of their first days of meeting for receiving moneys yearly, they shall enter whose mortgages are foreclosed, and the number and sums of them: Seventh, they shall enter the orders for and copies of the advertisements for sale and places at which they are set up, and the persons' names who set them up: Eighth, they shall enter the names of the purchasers of lands and the prices for which such lands sold, and the payment of the overplus to whom it belongs, with the time of and witnesses to such payment: Ninth, in case any principal moneys or a part thereof are paid in before the times of payment specified in the mortgages, the whole amount of such principal sums so paid in, shall be entered in the said book: Tenth, they shall enter also the cause of all suits, and the information they have received in relation thereto, and from whom, at length, or if too long, they shall minute the substance.

Supervisors may require additional security of commissioners. § 47. Whenever the supervisors of any county in this state shall apprehend that any of said commissioners, or their or either of their sureties, are likely to fail, it shall be their duty to require such commissioner to give such additional security as they may deem reasonable and satisfactory.

[See also § 58, *post.*]

Commissioners may require additional security of mortgagor. § 48. Whenever the said commissioners shall consider it necessary to require additional security for the purpose of securing the payment of moneys loaned by them or their predecessors in office, either on account of the reduction in value of the premises mortgaged, or on account of any substantial defect in the description of such premises in the original mortgage, they shall have power and it shall be their duty to demand such additional security as they shall think requisite, from the mortgagor, his representatives or assigns, and take the same in like manner as original mortgages are directed to be taken by them; and such additional secu-

rities shall be proceeded upon in case of default in payment in the same manner as original mortgages.

Proceeding where mortgagor refuses to give additional security. § 49. In case any mortgagor, his heirs or devisees, who shall be in the actual possession of the mortgaged premises, shall neglect or refuse to give such additional security as may be required by such commissioners for the purpose of supplying any substantial defect in the description of the mortgaged premises, the said commissioners may file a bill in the court of chancery to compel such mortgagor, his heirs, or devisees, to supply such defects in such manner as the chancellor shall deem equitable; and in every such case the chancellor shall have power to decree costs against the defendant, if in his opinion costs ought to be decreed.

Commissioners to exhibit mortgages, etc., to board of supervisors. § 50. It shall be the duty of the said commissioners to exhibit to the board of supervisors of their respective counties, at each annual meeting of the board, all the mortgages and other securities taken by them or their predecessors in office, for moneys loaned under and in pursuance of this act, together with their books of accounts, minutes and vouchers, in order that the board of supervisors may ascertain whether the moneys committed to the charge of such commissioners have been loaned and continued to be kept as loans according to law.

14 Barb., 335.

Supervisors to examine mortgages and report to comptroller. § 51. It shall be the duty of the board of supervisors, at each annual meeting of the board, to carefully examine all such mortgages and securities, accounts and minutes so to be annually exhibited to them, in reference to the state in which they shall find the said moneys, and to their safety and the sufficiency of the securities taken for the payment thereof, and to give to the said commissioners such directions as to taking additional security from the borrowers as the said board of supervisors shall deem proper and necessary: And the said board shall forthwith certify, under their hands, the state in which they shall find the said moneys, and the result of such examination, and what directions they have given to the said commissioners as to their taking such additional security, and to transmit such certificate by mail to the comptroller.

Comptroller's duty when commissioners are in default. § 52. If it shall appear to the comptroller, from any such certificate, that the whole of the moneys under the charge of the said commissioners have not been loaned as required by law, it shall be his duty to order suits to be commenced on the bonds of the said commissioners so found in default. And it shall also be his duty to report such commissioners, or any or either of them, being in default, to the governor, in order that they may be removed and others appointed in their stead.

How sales to be made and notices given where county is divided. § 53. Whenever any county in which loans of moneys may have been made pursuant to this act, shall hereafter be divided, and default shall be made in the payment of principal or interest of any such loan, the said commissioners under whose care any mortgage given for any such loan may be, shall have power to proceed to a sale of the mortgaged premises pursuant to the provisions of this act, whether the mortgaged premises shall be situated within the county of such commissioners or not; and in such cases all notices required to be affixed or published, shall be affixed and published in the county in which the mortgaged lands shall lie, and the sale shall be made in that county.

When comptroller to credit commissioners with amount of mortgage. § 54. Whenever any mortgaged premises shall be bid in by the said commissioners for an amount less than the mortgage money, interests and costs due, it shall be the duty of the comptroller, upon satisfactory proof being made to him that nothing more can be collected upon any covenant in the mortgage, or upon any bond or other security for the mortgage debt, and that the deficiency has not arisen from any negligence or fault of the commissioners, to credit them with the full amount due on

the mortgage at the time of sale, upon their delivering to him the original mortgage and all other securities for the mortgage debt.

Books of mortgages to be deposited in clerk's office. § 55. It shall be the duty of the said commissioners to deposit their books of mortgages in the clerk's offices of the respective counties for which they were appointed, there to remain at all times, except when the said commissioners shall be in actual session for the despatch of their official duties.

[Partly repealed by L. 1851, ch. 286, *post.*]

Form of mortgage. § 56. The mortgages to be taken by the commissioners by virtue of this act, shall be in the form following, to wit: "This indenture, made the _____ day of _____ in the year of our Lord _____ between _____ of _____ in the county of _____ of the first part, and the commissioners for loaning certain moneys of the United States, of the county _____ of the second part, witnesseth: That the said _____ for and in consideration of the sum of _____ to _____ well and truly paid by the commissioners aforesaid, hath granted, bargained, sold, aliened, released, enfeoffed and confirmed, and by these presents do grant, bargain, sell, alien, release, enfeoff and confirm, to the commissioners aforesaid, and their successors and assigns forever, all that _____ together with all the hereditaments and appurtenances to the same belonging, or in any wise appertaining, and all the estate, right, title, interest, claim and demand whatsoever of the said _____ of, in and to the above bargained premises, and every part thereof. To have and to hold the above bargained premises, and every part thereof, with the appurtenances, unto the said commissioners, and their successors and assigns forever, and for the uses and purposes mentioned in an act of the legislature of the state of New York, entitled 'An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping:' Provided always, and these presents are upon this condition, that if the said _____ heirs, executors, administrators or assigns, shall pay, or cause to be paid, to the said commissioners, the interest of the said sum of _____ at the rate of seven per cent per annum, on the first Tuesday of October, yearly and every year, and shall also pay to the said commissioners, the said principal sum of _____ with all the interest then due for the same, on the _____ day of _____ unless the same shall be by them sooner demanded; and shall also pay the said principal moneys if sooner demanded, the one-half part thereof after a previous notice of one year, and the remainder after a previous notice of two years, then the above grant, bargain and sale, and every part thereof, shall be void; but if the failure be made in any of the payments above mentioned, then the above bargain and sale is to remain in full force and virtue, and the said _____ for _____ heirs and assigns, hereby agree to be absolutely barred of and from all equity of redemption of the premises after the expiration of twenty-two days after such failure; and the said _____ for _____ heirs, executors, administrators and assigns, hereby covenant, grant and agree, to and with the said commissioners, and their successors well and truly to pay to them the interest of the said sum of _____ at the rate aforesaid, annually, on the first Tuesday of October in every year, and the said principal sum of _____ with all the interest then due thereon, on the _____ day of _____ unless the same shall be by them sooner demanded; and if the said principal moneys shall be sooner demanded, then to pay the same to the said commissioners, or their successors, the one-half after a previous notice of one year, and the remainder after a previous notice of two years; and that at the time of sealing and delivering of these presents, the said _____ lawfully seized of the above bargained premises, of a good, sure, perfect, absolute and indefeasible estate of inheritance, and that the same now are free and clear of and from all former and other gifts, grants, bargains, sales, liens, judgments, recognizances, dowers, rights of dower, and other incumbrances whatsoever; and also, that the above bargained premises, upon the sale thereof, pursuant to the directions of the said act, will yield the principal and interest aforesaid, remaining unpaid at the time of such sale, and until the first Tuesday

of October next after such sale, together with the charges of such sale. In witness whereof, the said ha hereunto set hand and seal, the day and year above written. Sealed and delivered in the presence of us."

Form of deed to be given by commissioners. § 57. The deeds to be given by the commissioners for any lands sold by them by virtue of this act, shall be in the form following to wit: "This indenture, made the day of in the year of our Lord one thousand eight hundred and between the commissioners for loaning certain moneys of the United States, of the county of of the first part, and of the second part, witnesseth: That the said commissioners, for and in consideration of the sum of to them in hand paid by the said whereof they acknowledge the receipt, and discharge the said heirs, executors and administrators thereof forever, have pursuant to a law of the state of New York, entitled 'An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping,' granted, bargained, sold, released, enfeoffed, and confirmed, and by these presents do grant, bargain, sell, release, enfeoff and confirm unto heirs, and assigns, all that together with all the hereditaments and appurtenances whatsoever to the same belonging, or in any wise appertaining, and all the estate, right, title, interest, claim and demand whatsoever of the said commissioners, and their successors, to the above bargained premises, and every part thereof, to have and to hold the above bargained premises, and every part thereof, with the appurtenances, to the said heirs and assigns, forever. In witness whereof, being the said commissioners, have hereunto set their hands and seals, the day and year above written. Sealed and delivered in the presence of ." To which deed the said commissioners shall affix their seals and respectively subscribe their names in presence of two witnesses.

41 Barb., 335.

Commissioners refusing to give additional security to be reported to governor. See § 47. § 58. If any of the said commissioners shall neglect or refuse, for the space of ten days after the receipt of notice, to give such additional security as shall at any time be required by the supervisors of the county for which such commissioner was appointed, or by the comptroller, such supervisors, or the comptroller, as the case may be, shall report the fact, together with their reasons for requiring such additional security, to the governor, in order to his removal.

Comptroller to make loans and issue stock to meet calls of United States government. § 59. Whenever the repayment of the moneys mentioned in the first section of this act, or any part thereof, shall be demanded by the secretary of the treasury of the United States, the comptroller shall be authorized, in order to meet such calls of the secretary of the treasury without delay, from time to time, as may be necessary, to make special loans on state stock on the most favorable terms which it shall be in his power to obtain, to be repaid out of the collections to be made of the said moneys authorized to be loaned by this act, and the comptroller for that purpose is hereby authorized to issue certificates of stock upon the credit of the state.

Losses of principal to be charged to interest. § 60. If any loss shall happen in the loans of the moneys mentioned in the first section of this act, such loss shall be a charge on the interest which shall be derived from the loans of said moneys, and paid to the treasurer of this state, as hereinbefore directed.

Moneys received by commissioners for annual interest to be deposited to credit of state treasurer. § 61. The moneys which may from time to time be paid to the said commissioners, on account of interest, after deducting therefrom the per centage allowed for their services, shall in all cases where it can, in the opinion of the comptroller, conveniently be done, be deposited in some safe bank to the credit of the state treasurer, and a certificate of the said deposit shall without delay be transmitted to the comptroller by the commissioners.

Comptroller to prepare forms, etc. § 62. It shall be the duty of the comptroller to prepare the necessary forms for carrying this act into effect, and to give such

instructions to the commissioners appointed under it, and to the boards of supervisors, as may be necessary to ensure a faithful discharge of the duties of the commissioners, and a full compliance with all the requirements of this act.

Accounts of United States deposit fund to be kept separate from state funds. § 63. It shall be the duty of the comptroller and treasurer to keep the accounts of the moneys mentioned in the first section of this act, in the books of their respective offices, separate and distinct from the state funds, and in such manner as to show the amount of principal belonging to the United States, the amount received for interest, and the amount paid from the annual revenue, and the objects to which the same has been applied.

Fees of clerks for searches. § 64. No county clerk, or any other person, shall be permitted to charge or receive for services rendered in making searches preparatory to making the loans authorized by this act, in any one case, a sum exceeding three dollars; and no clerk of the supreme court shall be permitted to charge or receive for the like services, in any one case, a sum exceeding two dollars; but nothing in this section contained shall authorize any county clerk, or any other person, to charge or receive for such services the said sum of three dollars, nor any supreme court clerk the said sum of two dollars, unless their fees as established by law authorize them so to do.

Interest of moneys how applied. § 65. The interest on the moneys authorized to be loaned by this act, which shall be paid into the treasury, except as is hereinbefore mentioned, shall be applied as the legislature shall hereafter direct.

L. 1838, Chap. 58 — An act concerning commissioners of loans.

Commissioner not to be supervisor. SECTION 1. No person holding the office of commissioner for loaning the moneys belonging to the United States, deposited with the state of New York for safe keeping, under the act passed April 4, 1837, shall be eligible to the office of supervisor of any town or ward of this state.

Vice versa. § 2. No supervisor of any town or ward shall be eligible to the office of commissioner under the act aforesaid.

L. 1838, Chap. 237—An act to appropriate the income of the United States deposit fund to the purposes of education and the diffusion of knowledge.

Income how to be expended. SECTION 1. The income arising from the investment of the moneys deposited by the United States with the state of New York, according to the act of congress, entitled "An act to regulate the deposit of the public moneys," passed June 23, 1836, shall, after deducting the charges thereon, be expended for the purposes of education and diffusion of knowledge, in the manner hereinafter provided.

For common schools \$110,000 yearly. § 2. The sum of one hundred and ten thousand dollars of the income mentioned in the preceding section, shall be annually distributed to the support of common schools, in like manner and upon the like conditions as the school moneys are now or shall be hereafter distributed, except that, to entitle the several school districts within this state to their share of the common school fund, including the fund authorized by this act to be distributed, it shall be necessary for each school district, after the present year, to maintain a school to be taught by a qualified teacher for four months instead of three months as now required by law, which four months shall be kept by a qualified teacher or teachers, after obtaining a certificate of competency from the school inspectors; the first distribution to be made in the year one thousand eight hundred and thirty-nine.

Schools in the city of New York. § 3. In each and every year hereafter, in which the corporation of the city of New York shall raise, collect and pay over to the support of common schools in the said city the whole additional amount of tax which they are now authorized to impose and collect for such purposes by the two several acts, entitled "An act for the further support and encouragement of common schools in the city of New York," passed April 25, 1829, and April 18, 1831, then it shall not be required of the corporation of the said city and county to raise by tax any additional sum of school money equal to the amount then apportioned to the said city and county under this act.

The sum of \$65,000 how to be appropriated. § 4. The sum of fifty-five thousand dollars shall at the same time be annually distributed to the support of common schools, in like manner and upon the like conditions as the school moneys are now or shall hereafter be distributed, except that the trustees of the several districts shall appropriate the sum received to the purchase of a district library, for the term of three years and after that time for a library, or for the payment of teachers' wages, in the discretion of the inhabitants of the district.

In the city of New York. § 5. The share of the moneys apportioned to or received in the city and county of New-York in pursuance of the last preceding section, shall be paid over in the manner by law directed as to other school moneys in the said city, and distributed by the commissioners of school money in the same proportion as the other school moneys among the several societies and schools entitled thereto, to be by them applied either to the support of school libraries or the payment of teachers.

Geneva College and New York University \$6,000 each. § 6. Six thousand dollars of the income aforesaid shall, for the period of five years and until otherwise directed by law, be annually paid to Geneva College, to be applied exclusively by said college to the payment of its professors and teachers; and the like sum for the like time and the same purposes annually to the University of the City of New-York: the first payments to each of the above named institutions to be made on the first day of August, one thousand eight hundred and thirty-eight.

Hamilton College, \$3,000. § 7. Three thousand dollars of the income aforesaid shall, for the period of five years and until otherwise directed by law, be annually paid to Hamilton College, to be applied exclusively by said college to the payment of its professors and teachers.

Literature fund, \$28,000. § 8. The sum of twenty-eight thousand dollars of the income aforesaid shall be annually paid over, on and after the first day of January next, to the literature fund, which, together with the sum of twelve thousand dollars of the present literature fund, shall be annually distributed among the academies in the several senatorial districts by the regents of the university, in the manner now provided by law. But no academy shall hereafter be allowed to participate in the annual distribution of the literature fund, until the regents of the university shall be satisfied that a proper building has been erected and finished to furnish suitable and necessary accommodation for such school, and that such academy is furnished with a suitable library and philosophical apparatus, and that a proper preceptor has been and is employed for the instruction of the pupils at such academy: And further, that the regents shall, on being satisfied that such building, library and apparatus are sufficient for the purposes intended, and that the whole is of the value at least of twenty-five hundred dollars, permit such academy or school to place itself under the visitation of the regents, and thereafter to share in the distribution of the moneys above mentioned, or any other of the literature fund in the manner now provided by law. The regents of the university may also admit to such distribution and to any other of the literature fund, any incorporated school, or school founded and governed by any literary corporation other than theological or medical, in which the usual academic studies are pursued, and which shall have been in like manner subjected to their visitation, and would in all other respects, were it incorporated as an academy, be entitled to such distribution.

Common school teachers. § 9. It shall be the duty of the regents of the university to require of every academy receiving a distributive share of public money under the preceding section equal to seven hundred dollars per annum, to establish and maintain in such academy a department for the instruction of common school teachers, under the direction of the said regents, as a condition of receiving the distributive share of every such academy.

Surplus in capital of common school fund. § 10. The residue of the income aforesaid not otherwise appropriated, shall be annually added to the capital of the common school fund, and the comptroller is hereby authorized and required to invest such surplus moneys in like manner as he is now authorized to invest the moneys of the common school fund.

Surplus how to be invested. § 11. If the comptroller and superintendent of common schools shall deem it most advantageous for the fund to invest any such surplus moneys on bond and mortgage, the comptroller may cause the same to be loaned out by any of the commissioners of loans appointed according to the act passed April 4, 1837, chapter one hundred and fifty; and the comptroller in such case shall prescribe the form of the securities to be taken, the terms and condition of payment, and all other necessary regulations for the security of such loans.

Liabilities of commissioners of loans. § 12. Such of the commissioners aforesaid as may be entrusted with the duty of loaning the moneys mentioned in the preceding sections, shall, in respect thereto, be subject to the like penalties, liabilities, forfeitures, restrictions and regulations, and receive the same compensations, as are now provided by law in relation to other moneys by them loaned; and shall, moreover, observe the regulations which the comptroller may prescribe, in pursuance of the last preceding section.

This act to be sent to each school district. § 13. It shall be the duty of the superintendent of common schools to transmit a copy of this act to the clerk of each of the counties of this state, to be by him forwarded to each of the school districts therein.

L. 1841, Chap. 264 — An act to extend the provisions of the act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping.

Time of payment extended to five years. SECTION 1. The payment of the principal moneys loaned in pursuance of the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping," passed April 4, 1837, is extended for the term of five years from the time when by the terms of the mortgages executed therefor, they will become due and payable; subject however to the condition of being called in, the one-fourth part on a previous notice of one year, and the remainder on a previous notice of two years. Such notice may be given by the comptroller, by publishing the same in the state paper, and in a newspaper, if there shall be any, printed in the county where the lands mortgaged are situated.

Part not less than one-fourth principal may be paid. § 2. Any mortgagor or other person in his behalf, may at any time pay the whole or any part not less than one-fourth of the principal and interest due upon any mortgage executed upon any loan made by virtue of the act hereby amended. No principal money not then due shall be paid to the said commissioners, except on the warrant of the county treasurer, of the county wherein they are commissioners; and no payment on such warrant shall be valid, unless the receipt therefor of the said commissioners shall be presented to and countersigned by the said treasurer; and it shall be the duty of the county treasurers respectively to make return of all such warrants and receipts to the comptroller, at such times and in such manner as he may from time to time direct.

Repeal. § 3. All the provisions of the act hereby amended which are not inconsistent with this act, are extended and continued in force, and shall apply to all the loans which are hereby extended.

L. 1844, Chap. 326 — An act to amend an act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping," passed April 14, 1837.

Original mortgages to be delivered to comptroller. SECTION 1. The provisions of section forty-four of the act passed April 4, 1837, are so far modified and amended as to authorize the commissioners of loans to deliver to the comptroller the original mortgages on property forfeited and sold for non-payment of interest, and bid off for the people of this state, in conformity with the provisions of the same act.

Copies thereof to be given and may be recorded; fees. § 2. It shall be the duty of the comptroller, upon the application of any person interested therein, to furnish a certified copy under his seal of office of any original mortgage made to the commissioners of loans, and delivered to him in pursuance of the fifty-fourth section of the act hereby amended, or of any act amending the same; and such certified copy shall, if required by the holders thereof, be recorded, together with the certificate of the comptroller, in the office of register or clerk of the county in which the lands described in the said mortgage are situated; and every such certified copy and such record thereof, or a transcript of such record, may be read in evidence in any court of this state, without any further proof thereof, with the like force and effect as the said original mortgage. The comptroller shall be authorized to demand and receive for every such certified copy of a mortgage the sum of fifty cents.

Commissioners to give a certificate of proceedings. § 3. The commissioners of loans when required by any person interested in any lands which have been heretofore sold, or may hereafter be sold under the foreclosure of any mortgage made in pursuance of the act hereby amended, are hereby authorized and directed to furnish a brief certificate of all or any of the proceedings of the commissioners under the said act, and of the proofs of such proceedings, as the same appear from the minute books, entries and records, kept by the said commissioners in relation to any such foreclosures and sale, so far as the same may affect such lands; and every such certificate under the hands and seals of the said commissioners, or under the hand and seal of any one of them, duly acknowledged¹ or proved in the manner required by law to entitle a deed of real estate to be recorded in the office of the register or clerk of the county in which the said lands are situated; and every such certificate so acknowledged or proved, and the record thereof, or a transcript of such record, shall be *prima facie* evidence of the facts therein stated, and may be read in evidence in any court in this state. For executing and delivering such certificate, the commissioners of loans shall be entitled to demand and receive from the person requiring the same, the sum of three dollars.

Commissioners to have the care of lands until sale. § 4. In all cases wherein mortgages to the commissioners aforesaid have been, or may be hereafter foreclosed, and the lands bid off to the people of this state, and the said mortgages delivered to the comptroller pursuant to section fifty-four of the act hereby amended, it shall continue to be the duty of the said commissioners, according to the provisions of the act aforesaid, and under the direction of the commissioners of the general land office, to exercise supervision and care over the interests of the people in the said lands, until the same shall have been finally disposed of according to law and the said commissioners shall be allowed to include the original amount of loans on the said mortgages as a portion of the funds on which commissions may be estimated under the act aforesaid.

L. 1845, Chap. 267 — An act to amend an act entitled "An act authorizing a loan of certain moneys belonging to the United States deposited with the state of New York, for safe keeping," passed April 4, 1837.

Money may be reloaned. SECTION 1. Whenever any part of the principal moneys loaned out, under the act entitled "An act authorizing a loan of certain moneys

¹ So in the original.

belonging to the United States, deposited with the state of New York, for safe keeping," passed April 1st, 1837, shall be paid in to the loan commissioners under said act, in the several counties in this state upon any mortgages, it shall be the duty of said commissioners to loan out the same again, in the same manner as when the whole of the principal and interest due upon any mortgage shall be paid in to them.

L. 1847, Chap. 476—An act authorizing the commissioners for loaning certain moneys of the United States, to open separate accounts with purchasers of mortgaged premises.

New accounts to be opened for parts of premises; restriction. SECTION 1. Whenever any person owning premises subject to a mortgage given to the commissioners for loaning certain moneys of the United States, of any county of this state, shall sell any portion of the said premises, it shall be the duty of the said commissioners on application to them for that purpose, with the assent of the mortgagor, to open an account against any purchaser for the proportionate part of the moneys secured by said mortgage on the portion of the said premises purchased by him, and thereafter to give credit for the payment on such portion, whenever the person making such payment shall so require: No such account shall be opened for a less sum than one hundred dollars: Nor unless the remainder of the mortgaged premises exclusive of all buildings thereon, and of the value of the rent in perpetuity if any, charged thereon, shall appear, to the satisfaction of the said commissioners, to be worth double the amount of the residue of the said mortgage debt and interest, not included in said new account.

Part when to be discharged from mortgage. § 2. Whenever any part for which a separate account has so been opened, shall have been fully paid, the said commissioners shall discharge or release the same from such mortgage, and such discharge or release duly acknowledged or proved, shall be sufficient to authorize the county clerk to enter a minute of such payment on the margin of the registry of such mortgage.

Saving clause. § 3. Nothing in this act shall be construed to affect or impair the obligation or liability of any mortgagor under or by virtue of any covenant contained in such mortgage.

Report to be made to supervisors. § 4. The commissioners shall make a special report of their proceedings in each case under this act, to the board of supervisors, at their first annual session after the new account is opened.

Comptroller to prescribe regulations. § 5. The comptroller shall prescribe regulations for opening new accounts by the commissioners aforesaid, similar to those adopted in the comptroller's office; and the commissioners shall give to the purchaser or purchasers of any portion of the premises mortgaged to them as such commissioners, a certificate, containing a description of the premises set off, the amount payable thereon, and setting forth that when the payment is made, the original mortgage will be cancelled in respect to the premises described in the certificate.

L. 1850, Chap. 337—An act to provide for a final settlement of the loans of one thousand seven hundred and ninety-two and one thousand eight hundred and eight, by a transfer to the United States deposit fund, and to abolish the office of loan commissioner.

Bonds and mortgages of loans to be transferred to commissioners for loaning United States deposit fund. SECTION 1. It shall be the duty of the loan commissioners in the several counties in this state, and they are hereby authorized to transfer and deliver to "The commissioners for loaning certain moneys of the United States," in the same county, as early as practicable after the first Tuesday in

May next, all the mortgages which shall then remain in the hands of said loan commissioners belonging to the loan of one thousand seven hundred and ninety-two, or the loan of one thousand eight hundred and eight, which transfer shall be made under the direction of the comptroller, in the manner and for the purposes prescribed by this act. But no such transfer shall be made unless the owner or owners of the premises included in such mortgage shall have assented thereto in writing.

Bond of mortgagor to be required. § 2. Before accepting the transfer of any of the mortgages specified in the preceding section, the commissioners for loaning certain moneys of the United States, shall require a bond to be executed to them by the original mortgagor, or his grantee or grantees, or some person of approved responsibility in his or their behalf, conditioned that the moneys due on said mortgage and the interest thereon, shall be paid to said commissioners, or their successors in office, at the same time or times and in the same manner, and that said mortgage shall be subject to the same conditions, proceedings and liabilities, as if said mortgage had been originally executed to the commissioners for loaning certain moneys of the United States, under and in pursuance of the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping," passed April 4, 1837, and the several acts amendatory thereof.

Condition of transfer. § 3. No such mortgage shall be transferred, as herein provided, unless the interest thereon shall have been paid to the first Tuesday of May next; and in case the owner or owners of the premises described in any mortgage, shall refuse to assent to such transfer, or shall refuse or neglect to execute, or cause to be executed and delivered to the commissioners for loaning certain moneys of the United States, a satisfactory bond, as prescribed by the second section of this act; or if the said commissioners shall be of the opinion that the premises described in such mortgage, are not a sufficient security for the amount due thereon, the loan commissioners shall proceed to foreclose such mortgage in the manner prescribed by the act passed March 14, 1792, and the acts amendatory thereof, if such mortgage shall belong to the loan of 1792; or in the manner prescribed by the act passed April 11, 1808, and the acts amendatory thereof, if such mortgage shall belong to the loan of 1808; and said loan commissioners shall immediately account to the comptroller for the moneys arising from such foreclosure.

Accounts of commissioners, how settled. § 4. On receiving from the said loan commissioners a transfer of any of said mortgages, in the manner herein specified, the commissioners for loaning certain moneys of the United States, shall thereupon make and deliver to said loan commissioners a draft on the treasurer of this state, in such form as the comptroller shall prescribe, for the amount due and unpaid on such mortgage or mortgages, which draft shall be transmitted to the comptroller by the said loan commissioners in settlement of their accounts with the state, and on receiving such draft or drafts the comptroller shall cause the amount thereof to be transferred from the capital of the United States deposit fund to the capital of the common school fund.

Transferred mortgages to be a part of the U. S. deposit fund. § 5. The mortgages which shall be transferred by the loan commissioners as aforesaid to the commissioners for loaning certain moneys of the United States, shall form a part of the capital of the United States deposit fund, and the said commissioners for loaning certain moneys of the United States, shall exercise the same powers in relation to such mortgages, in the collection of principal and interest thereon; and in proceedings in case of default, and shall receive the same compensation therefor as if said mortgages had been originally executed to the United States deposit fund, under and in pursuance of the act passed April 4, 1837, and the several acts amendatory thereof.

Commissioners to pay into treasury money in their hands and deliver books and papers to commissioners of U. S. deposit fund. § 6. After making the transfers au-

thorized and directed by this act, the loan commissioners shall proceed to settle their accounts with the comptroller, in respect to the loans of one thousand seven hundred and ninety-two and one thousand eight hundred and eight, and shall pay into the state treasury all balances remaining in their hands, without unreasonable delay; and they shall also deliver to the commissioners loaning certain moneys of the United States, all books, papers, titles and accounts now in their hands, belonging or in any way relating to the said loans of one thousand seven hundred and ninety-two and one thousand eight hundred and eight, or either of them. And from and after the settlement and approval of their accounts by the comptroller, the said offices of loan commissioners, of the loans of 1792 and 1808, shall cease to exist.

Extra compensation. § 7. The comptroller is hereby authorized to allow to the loan commissioners appointed under the said act of 1792 and 1808, such additional compensation as he shall deem just and reasonable for the extra services imposed upon them by this act.

L. 1851, Chap. 286—An act in relation to mortgages on premises in the city and county of New York, taken by the commissioners for loaning certain moneys of the United States.

Mortgages, where deposited. SECTION 1. All mortgages heretofore executed on premises in the city and county of New York to the commissioners for loaning certain moneys of the United States, pursuant to the provisions of the act authorizing a loan of certain moneys belonging to the United States, deposited with the people of the state of New York for safe keeping, passed April fourth, one thousand eight hundred and thirty-seven, together with the indexes relating thereto, and all mortgages hereafter executed on premises in said city and county, and shall be deposited in the office of the register of the city and county of New York, and shall not at any time be removed therefrom unless the same shall have been paid and fully satisfied.

Office of commissioners. § 2. The office of the said commissioners mentioned in the forty-first section of said act shall, in the city and county of New York, be kept at the office of the register of the city and county of New York.

Repeal. § 3. So much of sections forty-one and fifty-five of said act as are inconsistent with this act are hereby repealed.

L. 1863, Chap. 73—An act to amend an act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping," passed April fourth, eighteen hundred and thirty-seven, and to amend certain sections of the acts amendatory thereof.

Costs and disbursements. § 3. The said commissioners shall be entitled to include in the expenses of the sale mentioned in the act hereby amended, the fees which they shall necessarily pay for searches of records in any office, and for the taking of said affidavits, and the sum of one dollar for the service of each and every advertisement served by them or in their behalf, in any one foreclosure; provided, however, that the cost of such service shall not in any one foreclosure exceed the sum of ten dollars.

Former sales by one commissioner, confirmed; proviso. § 9. All sales of lands mortgaged to the commissioners for loaning certain moneys of the United States, in the several counties of this state, heretofore made and conducted in good faith by one of said commissioners, after the fee therein had become vested in the commissioners by virtue of section thirty of the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping," passed April fourth, eighteen hundred and thirty-seven, and after notice of such sales had been given in all respects in conformity to said

act, and the acts amending the same shall be deemed and held to be of the same effect and validity as if both of such commissioners had been present and participated in such sale or sales; provided however, in all such cases that the purchaser or purchasers shall have paid the purchase money of said premises, and a deed therefor executed by both of said commissioners shall have been delivered to the purchaser or purchasers, providing that this section shall not affect any action now pending in the courts of this state.

[The remainder of this statute amends particular sections of the act of 1837.]

L. 1864, Chap. 553 — An act to amend chapter one hundred and fifty of the Laws of one thousand eight hundred and thirty-seven, authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping.

Commissioners may invest in county volunteer bonds; bonds to be transmitted to comptroller. SECTION 1. In addition to the mode of loaning money heretofore authorized, the commissioners of the United States loan fund may invest any moneys in their hands, or which may hereafter come into their hands in the purchase, at not over the par value thereof, of bonds of their respective counties, issued for the purpose of raising money to pay bounties to volunteer soldiers, in accordance with or made legal by statute law of this state, and bearing not less than seven per cent. interest. The said commissioners shall keep a correct record of said bonds in their book of mortgages, and also in their minute book, and transmit the said bonds to the comptroller to be deposited in his office for safe keeping; but the interest thereon shall be paid to the commissioners, who shall give proper receipts for the same, and shall transmit the said interest in like manner in all respects as they are directed to transmit interest on mortgages.

L. 1867, Chap. 704 — An act in relation to the United States deposit fund.

Certain sales legalized. SECTION 1. All sales of lands mortgaged to the commissioners for loaning certain moneys of the United States, in the several counties of this state, heretofore or hereafter to be made, and which have been and shall be conducted in good faith by one of said commissioners, after the fee therein had become vested in the commissioners by virtue of section thirty of the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping," passed April fourth, eighteen hundred and thirty-seven, and after notice of such sales had been given in all respects in conformity to said act, and the acts amending the same, shall be deemed and held to be of the same effect and validity as if both of such commissioners had been present and participated in such sale or sales; provided, however, in all such cases that the purchaser or purchasers shall have paid the purchase-money of said premises, and a deed therefor, executed by both of said commissioners, shall have been delivered to the purchaser or purchasers.

L. 1868, Chap. 698 — An act to authorize the discharge of mortgages to commissioners of United States deposit fund.

Authority to comptroller, to direct discharge of paid mortgages. SECTION 1. It shall and may be lawful for the comptroller, upon satisfactory proof that any moneys loaned by commissioners for loaning the United States deposit fund and secured by mortgage have been fully paid to either of the commissioners authorized to receive the same, in case the mortgage for any reason remains uncanceled and undischarged of record, to authorize and empower the proper commissioners

of the said fund to cancel and discharge the said mortgage in the manner prescribed by law; and the said commissioners shall, in pursuance of the order and direction of the comptroller, cancel and discharge such mortgage.

L. 1871, Chap. 576—An act reappropriating a certain portion of the income of the United States deposit fund for the benefit of academies.

Application of balances of appropriation. SECTION 1. The regents of the university are hereby authorized to apply one thousand dollars of the unexpended balance of the appropriation made by chapter two hundred and eighty-one of the laws of eighteen hundred and seventy, for the instruction of teachers of common schools, to the purchase of books and apparatus for the benefit of academies, pursuant to chapter five hundred and thirty-six of the laws of eighteen hundred and fifty-one.

Report on metric system to be placed in libraries. § 2. The regents are hereby authorized to apply a part of the said sum, not exceeding three hundred dollars, in procuring copies of the report of the committee of the university convocation of eighteen hundred and seventy, on the metric system, with the accompanying documents, to be placed in the libraries of the colleges, academies, normal and union schools of the state.

L. 1880, Chap. 517—An act to reduce and fix the rate of interest on bonds and mortgages held by the commissioners of the United States deposit fund in the several counties of the state; and to amend chapter 150 of the laws of 1837.¹

Interest on mortgages held by commissioners. SECTION 1. The interest on all mortgages on real estate held by the commissioners for loaning the United States deposit fund shall be from the first day of October, eighteen hundred and seventy-nine, six dollars upon one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or shorter time.

[The remainder of this statute amends § 18 of the act of 1837.]

L. 1884, Chap. 412—An act relating to investments of the moneys belonging to the United States deposit fund.

Investments legalized. SECTION 1. The following investments, heretofore made by the comptroller, of the moneys belonging to the United States deposit fund and now standing to the credit of said fund upon the books of the comptroller, namely: five hundred and fifteen thousand dollars three and sixty-five one hundredths per centum bonds of the District of Columbia and fifty thousand dollars Troy city three and one-half per centum registered bonds, redeemable May one, nineteen hundred and ten to nineteen hundred and nineteen, are hereby confirmed and declared to be valid and shall continue as duly authorized investments of the moneys of said fund.

Future investments. § 2. Whenever there shall be any money in the treasury belonging to said fund it shall be lawful for the comptroller to invest the same in such of the public securities of the cities or counties of this state as he shall deem most for the interest of said fund.

Proviso. § 3. Nothing herein contained shall be so construed as to work repeal of section three of chapter three hundred and sixty-six of the laws of eighteen hundred and forty-eight.

¹ Title thus amended by L. 1885, ch. 267, § 5.

[Supplementary Title.]

TITLE 4^B.*Of the College Land Scrip Fund.*

L. 1863, Chap. 20—An act declaring the acceptance by this state, of the provisions of an act of the congress of the United States, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved second July, eighteen hundred and sixty-two.

Acceptance of provision of U. S. law. SECTION 1. The state of New York, by its legislature, hereby declares its acceptance of the provisions of an act passed by the congress of the United States, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July second, eighteen hundred and sixty-two; and the governor is hereby authorized to give such notice of the said acceptance as may be proper.

L. 1863, Chap. 460—An act relative to the lands granted to this state by the act of congress entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved second July, eighteen hundred and sixty-two, and authorizing the sale thereof, and the investment of the proceeds of such sales.

Comptroller may accept land scrip. SECTION 1. The comptroller of this state is hereby authorized to receive from the proper authorities of the United States, the land scrip to be issued for the lands granted to this state by the act of congress, approved July second, eighteen hundred and sixty-two, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," and to give all necessary receipts or acknowledgments for the scrip which may be so received by him.

May sell scrip; prohibition. § 2. The said comptroller is hereby authorized, by and with the approval and concurrence of the lieutenant-governor, attorney-general, treasurer and chancellor of the university, from time to time as he may deem proper, to sell the said land scrip, or any part thereof for cash or for stocks of the United States, or of the states, or some other safe stocks, yielding not less than five per centum upon the par value of said stocks, and to execute all necessary and proper transfers thereof. But no such scrip shall be transferred and delivered to any purchaser thereof until the same shall have been fully paid for, or until payment thereof shall be fully secured by collaterals of such stock as above specified.

Provisions concerning sale of scrip and proceeds; appropriation of moneys. § 3. The comptroller shall make all such arrangements, employ such agents, and adopt such measures, in all respects, as he may deem most expedient for effecting a judicious sale of the said land scrip; and the treasurer, on the warrant of the comptroller, shall, from time to time, pay out¹ any moneys in the treasury, not otherwise appropriated, all the expenses of management and superintendence, and taxes, if any, from the selection of said lands previously to their sale; and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, and of all incidental matters connected with or arising out of the care, management, and sale of the said lands; so that the entire proceeds of the sale of said lands shall be applied, without any diminution whatever, to the purposes mentioned in the said act of congress, and the sum of three thousand dollars, or so much thereof as may be necessary, is hereby appropriated to pay the expenses mentioned in said section; and also the further sum of one thousand dollars, or so

¹ The word "of" omitted.

much thereof as may be necessary in the judgment of the comptroller, to pay William T. Steiger, of the city of Washington, for his services in procuring and forwarding the land scrip referred to in this act. [*Thus amended by L. 1864, ch. 229.*]

30 Hun, 177.

Payment of proceeds. § 4. The moneys which may be received on the sale of the said lands or land scrip, shall, from time to time, and as often as there shall be a sufficient accumulation for that purpose, be invested by the comptroller, in stocks of the United States, or of this state, or in some other safe stocks, yielding not less than five per centum per annum on the par value of said stocks; and the money so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished, except as provided for in and by the said act of congress.

Separate books to be kept relating to scrip. § 5. The comptroller shall keep separate books of account in his office of all matters relating to the said land-scrip and lands, and the care, management, sale and disposition thereof, and of the investment of the moneys derived from the sale of the said lands and the land-scrip, and of the manner in which the income of the said fund may be disposed of, pursuant to any act of the legislature authorizing the application thereof, in conformity with the provisions of the act of congress aforesaid.

Comptroller to report annually. § 6. The comptroller in his annual report to the legislature shall state the condition and amount of the said fund, the expenditures on account thereof, and all his proceedings and acts in regard thereto.

Moneys received by comptroller to be deposited in treasury. § 7. All moneys received by the comptroller under the provisions of this act, shall be forthwith deposited by him in the treasury of this state, as a trust fund, with which a special office and bank account shall be kept by the treasurer, so that the said moneys shall not be intermingled with the ordinary funds of the state, and the said moneys shall be paid out by the treasurer, from time to time, on the warrant of the comptroller, when required by him for the purposes of being invested as hereinbefore mentioned.

31 How, Pr. R., 78.

L. 1863, Chap. 511 — An act to appropriate the income and revenue which may be received from the investment of the proceeds of the sale of lands granted to this state by the act of congress entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July second, eighteen hundred and sixty-two.

Income from sale of lands to be disposed of. SECTION 1. The income and revenue which may be received from the investment of the proceeds of the sale of the lands, or any part of them, granted to this state by the act of congress entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July second, eighteen hundred and sixty-two, shall be disposed of as hereinafter directed.

Proceeds of investment to be paid to trustees of People's College; proviso; excess of investment; proviso. § 2. The said income, interest and avails of the said investment are hereby appropriated to, and shall, from time to time, as the same shall be received, be paid over to the trustees of the People's College, located at Havana, in the county of Schuyler, for its use and behoof, in the mode and for the purposes in said act of congress defined; provided, however, such payments shall not be made unless the said trustees shall show to the satisfaction of the regents of the university of this state, and so to be certified by them, within three years from the passage of this act, that the said trustees are prepared with at least ten

competent professors to give instruction in such branches of learning as are related to agriculture and the mechanic arts, including military tactics, as required by the said act of congress, and that they, the said trustees, own and are possessed of suitable college grounds and buildings, properly arranged and furnished, for the care and accommodation of at least two hundred and fifty students, with a suitable library, philosophical and chemical apparatus, and cabinets of natural history, and also a suitable farm, for the practical teaching of agriculture, of at least two hundred acres, with suitable farm buildings, farming implements and stock; and also suitable shops, tools, machinery, and other arrangements for teaching the mechanic arts, all of which property must be held by the said trustees absolutely, and be fully paid for; and provided, further, that the said college shall be subject to the visitation of the said regents; and provided, further, that the said payment shall cease whenever, in the opinion of the said regents, the said college shall neglect to fulfil the conditions of this appropriation; and that whenever the proceeds of the investment or investments aforesaid shall be in excess of the needs of said college, the regents of the university, who shall have power to determine the amount of such excess, shall notify the comptroller, and he shall thereafter withhold the same from said college; and provided further, that the said People's College shall conform to the act of congress aforesaid in making an annual report, and transmitting copies thereof to the secretary of the interior at Washington and to other colleges.

Property not to be incumbered or disposed of; exception. § 3. From and after the time the said trustees of the said college shall have become entitled to the benefits of this act as aforesaid, the said college grounds, farm, workshops, fixtures, machinery, apparatus, cabinets and library shall not be incumbered, aliened or otherwise disposed of by the said trustees; and any attempt by the said trustees so to do shall be utterly void, and of no effect. But such machinery, apparatus, cabinets and library, or any part thereof, may at any time be disposed of by said trustees, on reasonable cause therefor being shown, to the satisfaction of the regents, and on such terms as the said regents may approve.

When college to receive students from each county of the state free of charge for tuition, etc.; number so received to be designated; when and what students may have board, tuition and room rent free. § 4. From the commencement of the year one thousand eight hundred and sixty-eight, or whenever in the opinion of the regents of the university, the income arising from the investments provided for in this act shall warrant the same, the People's College shall receive students from each county in this state, and shall give and furnish to them instruction in any or all the prescribed branches of study pursued in any department of said institution, free from any tuition fee or any incidental charges to be paid to said college; and the regents of the university shall, from time to time, designate the number of students to be so educated, but they shall be selected, or caused to be selected, by the chancellor of the university and the superintendent of public instruction, who shall jointly publish such rules and regulations in regard thereto as will, in their opinion, secure proper selections, and stimulate competition in the academies, public and other schools in this state. From and after the same time, also, the said regents of the university shall each year, in accordance with the income of the college, determine the number of youth of the state of New York whom the faculty of the college, after due examination and with the approbation of the trustees thereof, shall admit as properly qualified students, who shall be exempt from any payment for board, tuition or room rent; but in the selection of students preference shall be given to the sons of those who shall have died in the military or naval service of the United States.

Disposition of remainder of income. § 5. The remainder of the income and revenues mentioned in the first section of this act, not appropriated to the People's College, as aforesaid, shall be paid over from time to time, in such manner and proportions as the said regents shall determine, to such of the colleges of this state as shall be willing to comply in their arrangements and instruction to the requisi-

tions of the act of congress aforesaid, and in such manner as in the judgment of the said regents shall best carry out the true intent and meaning of the said act, having reference in such selection and division to the existing arrangements of such colleges respectively, for instruction in agriculture and the mechanic arts, and giving preference as far as may be to such institutions as shall receive endowments after the passage of this act, for the purpose of advancing instruction in agriculture and the mechanic arts. The provisions of the third section of this act shall apply to the institution so selected as aforesaid.

All payments made out of this trust fund. § 6. All payments to be made under this act, shall be made by the treasurer, on the warrant of the comptroller, out of the special or trust fund on deposit with the treasurer, arising from the receipt of the income and revenue mentioned in the first section of this act.

Act may be amended or repealed. § 7. The legislature may, at any time, alter, amend, or repeal this act.

L. 1865, Chap. 585 — An act to establish the Cornell University, and to appropriate to it the income of the sale of public lands granted to this state by congress, on the second day of July, eighteen hundred and sixty-two, also to restrict the operation of chapter five hundred and eleven of the laws of eighteen hundred and sixty-three.

Corporators; powers. SECTION 1. Ezra Cornell, William Kelly, Horace Greeley, Josiah B. Williams, William Andrus, John McGraw, George W. Schuyler, Hiram Sibley, J. Meredith Read, John M. Parker, and such other persons as may be associated with them for that purpose, are hereby created a body politic and corporate, to be known as the Cornell University, which university shall be located in the town of Ithaca, in the county of Tompkins, in this state. The corporation hereby created shall have all the rights and privileges necessary to the accomplishment of the object of its creation as declared in this act, and in the performance of its duties shall be subject to the provisions and may exercise the powers, enumerated and set forth in the second article of the fifteenth chapter, title one of the Revised Statutes of the State of New York.

Additional trustees of first board; Ezra Cornell; when seven other trustees to be chosen; a majority not to be of one religious sect; when elected trustee deemed to vacate his office; division into classes, etc.; terms of office; election of trustees; trustees, by whom to be chosen before alumni equal one hundred; after. § 2. The first board of trustees of said corporation shall consist of the persons named in the first section of this act. In addition thereto the governor, the lieutenant-governor, the speaker of the house of assembly, the superintendent of public instruction, the president of the board of faculty of the said corporation, the president of the state agricultural society, the librarian of the Cornell library, the eldest lineal male descendant of Ezra Cornell, shall be trustees thereof *ex officio*. The said Ezra Cornell shall be a trustee thereof until he shall die or resign. In addition to the number of trustees herein provided for, there shall be elected by them, or by a quorum of them, at their first meeting, by the vote of a majority of such quorum, seven other trustees to act with them as the board of trustees of said university; but at no time shall a majority of the board be of any one religious sect, or of no religious sect. Whenever any one of the seven trustees so elected by the others shall become a trustee *ex officio*, by being chosen as the president of the board of faculty of the university, his office as an elected trustee shall become vacant, and shall not again be filled in any manner; and the number of trustees, other than of those who are trustees *ex officio*, including in the *ex officio* trustees the said Ezra Cornell, shall not again exceed fifteen. The said fifteen trustees, who are not such *ex officio*, shall at the first annual commencement of the said university, be divided into classes, by lot, of three in each class. The first lot shall be cast in such manner as shall be provided by the by-

laws of the university, or by the resolution of the board of trustees. The term of office of the first class of said elective trustees shall terminate at the end of five years from the said first annual commencement; the term of office of the second class shall terminate at the end of six years from the said first annual commencement; the term of office of the third class shall terminate at the end of seven years from the said first annual commencement; the term of office of the fourth class shall terminate at the end of eight years from the said first annual commencement; the term of office of the fifth class shall terminate at the end of nine years from the said first annual commencement. On the expiration of the term of any such class, and at the then next annual commencement, three trustees shall be elected to fill the place of such class. All trustees elected after the first election, as herein provided, shall hold office for five years from the annual commencement at which they are elected. The election thereof shall be by ballot, and thirteen of the ballots cast shall concur before any one is thereby elected a trustee. The said trustees shall be elected by the votes of those of the board of trustees whose term does not expire until the alumni of the said university shall have reached one hundred. Who shall be deemed the alumni of the said university shall be prescribed by the by-laws of the said university, and such prescription shall be made at or before the first annual commencement of the said university, and the same shall not be changed except by act of the legislature. When the number of the alumni shall have reached one hundred, and so long as such number continues at one hundred or upwards, the trustees to be elected at the end of any year shall be elected as follows: The board of trustees shall, in the manner herein provided, elect two; the said alumni, if forty-five of them shall meet at the said university at the time above specified, shall, in the manner above provided, elect one trustee; but not unless a majority of those present shall concur in the election. If forty-five of the alumni shall not so meet, or so meeting shall not so elect, or if at any time the number of the alumni shall not be one hundred, the board of trustees shall elect the three trustees in the manner above provided. [*Thus amended by L. 1867, ch. 763.*]

Farm to consist of not less than 200 acres; special constables. § 3. The farm and grounds to be occupied by said corporation, whereupon its buildings shall be erected, in such manner and to such extent as the trustees may from time to time direct and provide for, shall consist of not less than two hundred acres. For the protection of the grounds, farm buildings and property of the university, the supervisor of the town of Ithaca may appoint, upon the recommendation of the board of trustees of said Cornell University, not more than three suitable persons, as special constables, who shall have and exercise within the boundaries of such university grounds, the powers and duties of constables of towns, and whose compensation shall be regulated and paid by said board of trustees of the university. [*Thus amended by L. 1882, ch. 147.*]

Object of college. § 4. The leading object of the corporation hereby created shall be to teach such branches of learning as are related to agriculture and the mechanic arts, including military tactics; in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life. But such other branches of science and knowledge may be embraced in the plan of instruction and investigation pertaining to the university as the trustees may deem useful and proper. And persons of every religious denomination, or of no religious denomination, shall be equally eligible to all offices and appointments.

Corporation may take and hold real estate, etc. § 5. The corporation hereby created may take and hold real and personal property to such an amount as may be or become necessary for the proper conduct and support of the several departments of education heretofore established or hereafter to be established by its board of trustees, and such property, real and personal as has been, or may hereafter be given to said corporation by gift, grant, devise or bequest in trust or otherwise, for the uses and purposes permitted by its charter, and in cases of trusts so

created, the several trust estates shall be kept distinct, and the interest or income shall be faithfully applied to the purposes of such trust, in accordance with the provisions of the act or instrument by which the respective trusts were created. [Thus amended by L. 1882, ch. 147.]

45 Hun, 354.

Its income. § 6. The income, revenue and avails which shall be received from the investment of the proceeds of the sale of the lands, or of the scrip therefor, or of any part thereof, granted to this state by the act of congress, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July second, eighteen hundred and sixty-two, are hereby appropriated to, and shall, from time to time as the same shall be received, be paid over to the trustees of the corporation hereby created, for its use and behoof in the mode and for the purposes in said act of congress defined; provided, however, that no part of such payment shall be made unless the said trustees shall prove to the satisfaction of the comptroller, within six months after the passage of this act, that the said corporation possesses a fund of five hundred thousand dollars at least, given by Ezra Cornell, of Ithaca aforesaid, which last-named fund shall be given absolutely and without any limitation, restriction or condition whatsoever, save such as is in accordance with the provisions of this act, nor shall the same be in any manner repaid or returned to the said Cornell, his representatives or assigns, except as in this act provided, and any vote or resolution, or act or proceeding to return or repay the same, except as in accordance with this act, shall be void; and provided further, that no such payment shall be made, unless within six months from the passage of this act said Ezra Cornell of Ithaca, shall pay over to the trustees of Genesee College, located at Lima in this state, the sum of twenty-five thousand dollars, for the purpose of establishing in said Genesee College a professorship of agricultural chemistry. Provided further, that the trustees of the People's College at Havana may, in place of a strict compliance with the conditions of the act, chapter five hundred and eleven of the laws of eighteen hundred and sixty-three, in the details thereof, within three months from the passage of this act, deposit such a sum of money as in addition to the amount already expended by them upon or for the purposes of their corporation, shall, in the opinion of the regents of the university of New York, be sufficient to enable the said trustees fully to comply with the conditions of the said chapter five hundred and eleven of the laws of eighteen hundred and sixty-three. Such deposit, if made, shall be made in such place, and on such terms, as shall be satisfactory to the said regents of the university. And the said deposit shall not be withdrawn or removed, or in any way affected or impaired, except to be applied under the directions of the said regents for the purposes of the said People's College, or upon the trustees thereof relinquishing any claim to the benefit of the said act of eighteen hundred and sixty-three. But nothing contained in this provision shall release the said trustees of the People's College from the conditions and obligations imposed or contained in section three of said act. They shall, on the contrary, in addition to the making and continuing such deposit as aforesaid, within the said three months, show to the satisfaction of the said regents that they have complied with the requirements of the said section three, and that the college grounds, farm, workshops, fixtures, machinery, apparatus, cabinets and library, occupied or owned by them, are not incumbered, aliened, or otherwise disposed of. And nothing contained in this provision shall release the said trustees of the People's College from a full and perfect performance of the terms and conditions of the said act, chapter five hundred and eleven of the laws of eighteen hundred and sixty-three, in all its details and within the time therein limited therefor. Nor shall the trustees of the said People's College receive from the comptroller any portion of the income and avails of the said lands until they have complied with and performed the terms and conditions of the said act, chapter five hundred and eleven of the laws of eighteen hundred and sixty-three, to the satisfaction of said regents; nor shall they receive any portion of the said avails and income or revenue, unless they comply

with the conditions of this act, by making and continuing the said deposit. If the said trustees of the People's College shall not, within the term mentioned in the said act, chapter five hundred and eleven, have complied therewith to the satisfaction of the said regents, or if, within the said term of three months, they shall not have made the said deposit, in accordance with and upon the terms fixed by this act, then the avails, income and revenue which shall be received from the investments of the proceeds of the sales of the said lands or of the scrip therefor, shall be disposed of to the corporation hereby created in the manner provided for in this section, and not before. If, on the other hand, the said trustees of the People's College shall, within the time provided for in the act, chapter five hundred and eleven of the laws of eighteen hundred and sixty-three, and as herein provided, to the satisfaction of the said regents, comply with the conditions and obligations thereof and hereof, so that they shall be entitled to receive and enjoy the benefits thereof and hereof, then the said fund of five hundred thousand dollars given by Ezra Cornell, shall, in his option or that of his personal representatives or assigns, revert to him or them. Moreover, the trustees of the People's College may, at any time, upon written notice to the said regents, withdraw and remove the aforesaid deposit; but such notice and withdrawal, or either of them, shall be deemed a relinquishment and forfeiture by them of the benefit to them of the said chapter five hundred and eleven, and of the benefit of this act, and thereupon, upon the performance of the said Ezra Cornell, or of his heirs, and of the corporation hereby created, of the conditions and obligations of this act, the said income, avails and revenue shall be disposed of to the said Cornell University, as is hereinbefore provided.

30 Hun, 177.

Provisions to be made regarding buildings, etc., before October. § 7. The trustees of the said university, if they shall become entitled to the benefits of this act, shall make provisions to the satisfaction of the regents, in respect to the buildings, fixtures and arrangements generally, on or before the first day of October, *anno Domini*, eighteen hundred and sixty-eight, to fulfil the provisions of the aforesaid act of congress; they shall also make all reports and perform such other acts as may be necessary to conform to the act of congress aforesaid. The said university shall be subject to the visitation of the regents of the university of the state of New York. [*Thus amended by L. 1867, ch. 763.*]

(*L. 1867, ch. 763.*) § 3. The trustees of the said university are hereby authorized to borrow from time to time, for the erection and equipment of necessary university buildings, a sum not exceeding in all, fifty thousand dollars, and secure the repayment of the same by note or bond, as shall be agreed upon.)

Property not to be incumbered. § 8. From and after the time the said corporation shall have become entitled to the benefits of this act as aforesaid, the said university grounds, farm, workshops, fixtures, machinery, apparatus, cabinets and library, shall not be encumbered, aliened or otherwise disposed of by the said trustees, or by any other person, except on terms such as the legislature of the state of New York shall have approved, and any act of the said trustees, or that of any other person which shall have that effect, shall be void.

To be open to applicants; to receive one student from each assembly district; how selected; candidates to be examined and the best selected; preference to be given to sons of soldiers or sailors; vacancies, how filled; leave of absence; duty of superintendent of public instruction. § 9. The several departments of study in the said university shall be open to applicants for admission thereto at the lowest rates of expense consistent with its welfare and efficiency, and without distinction as to rank, class, previous occupation or locality. But, with a view to equalize its advantages to all parts of the state, the institution shall receive students to the number of one each year from each assembly district in this state, to be selected as hereinafter provided, and shall give them instruction in any or in all the prescribed branches of study in any department of said institution, free of any tuition fee or of any incidental charges to be paid to said university, unless such incidental charges shall have been made

to compensate for materials consumed by said students or for damages needlessly or purposely done by them to the property of said university. The said free instruction shall, moreover, be accorded to said students in consideration of their superior ability and as a reward for superior scholarship in the academies and public schools of this state. Said students shall be selected as the legislature may from time to time direct, and until otherwise ordered, as follows:

1. A competitive examination, under the direction of the department of public instruction, shall be held at the county court-house in each county of the state, upon the first Saturday of June, in each year, by the city superintendents and the school commissioners of the county.

2. None but pupils of at least sixteen years of age and of six months' standing in the common schools or academies of the state, during the year immediately preceding the examination shall be eligible.

3. Such examination shall be upon such subjects as may be designated by the president of the university. Question papers prepared by the department of public instruction shall be used, and the examination papers handed in by the different candidates shall be retained by the examiners and forwarded to the department of public instruction.

4. The examiners shall within ten days after such examination, make and file in the department of public instruction, a certificate in which they shall name all the candidates examined and specify the order of their excellence, and such candidates shall, in the order of their excellence, become entitled to the scholarships belonging to their respective counties.

5. In case any candidate who may become entitled to a scholarship shall fail to claim the same or shall fail to pass the entrance examination at such university, or shall die, resign, absent himself without leave, be expelled or for any other reason shall abandon his right to or vacate such scholarship either before or after entering thereupon, then the candidate certified to be next entitled in the same county shall become entitled to the same. In case any scholarship belonging to any county shall not be claimed by any candidate resident in that county, the state superintendent may fill the same by appointing thereto some candidate first entitled to a vacancy in some other county, after notice has been served on the superintendent or commissioners of schools of said county. In any such case, the president of the university shall at once notify the superintendent of public instruction, and that officer shall immediately notify the candidate next entitled to the vacant scholarship, of his right to the same.

6. Any state student who shall make it appear to the satisfaction of the president of the university that he requires leave of absence for the purpose of earning funds with which to defray his living expenses while in attendance, may in the discretion of the president, be granted such leave of absence, and may be allowed a period not exceeding six years from the commencement thereof for the completion of his course at said university.

7. In certifying the qualifications of the candidates, preference shall be given (where other qualifications are equal) to the children of those who have died in the military or naval service of the United States.

8. Notices of the time and place of the examinations shall be given in all the schools, having pupils eligible thereto, prior to the first day of January in each year, and shall be published once a week for three weeks in at least two newspapers in each county immediately prior to the holding of such examinations. The cost of publishing such notices and the necessary expenses of such examination shall be a charge upon each county respectively, and shall be audited and paid by the board of supervisors thereof. The state superintendent of public instruction shall attend to the giving and publishing of the notices hereinbefore provided for. He may, in his discretion, direct that the examination in any county may be held at some other time and place than that above specified, in which case it shall be held as directed by him. He shall keep full records in his department

of the reports of the different examiners, showing the age, post-office address and standing of each candidate, and shall notify candidates of their rights under this act. He shall determine any controversies which may arise under the provisions of this act. He is hereby charged with the general supervision and direction of all matters in connection with the filling of such scholarships. Students enjoying the privileges of free scholarships shall in common with the other students of said university be subject to all of the examinations, rules and requirements of the board of trustees or faculty of said university except as herein provided. [*Thus amended by L. 1887, ch. 291, superseding L. 1872, ch. 654, and L. 1886, ch. 614.*]

45 Hun, 19.

Payments from treasury. § 10. All payments made under this act, out of the treasury of the state, shall be made by the treasurer on the warrant of the comptroller out of the special fund on deposit with the treasurer, arising from the receipt of the income and revenue and avails mentioned in the sixth section of this act.

Conflicting laws. § 11. Chapter five hundred and eleven of the laws of eighteen hundred and sixty-three, entitled "An act to appropriate the income and revenue which may be received from the investment of the proceeds of the sales of the lands granted to the state by the act of congress, entitled 'An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts,' approved July second, eighteen hundred and sixty-two, passed May fourteenth, eighteen hundred and sixty-three," shall be read and construed subject to the provisions of this act, and whenever the provisions of said act, chapter five hundred and eleven of the laws of eighteen hundred and sixty-three, and the other provisions of this act, shall conflict, the provisions of this act shall be deemed the law, and shall prevail.

Repealing clause. § 12. The legislature may at any time alter or repeal this act.

When to take effect. § 13. This act shall take effect immediately.

Registry of signature and address of alumni to be kept. § 14. A registry of the signature and address of each alumnus of Cornell University shall be kept by the treasurer thereof at the business office of said university. [*Added by L. 1883, ch. 423.*]

Nominations. § 15. Any ten or more alumni may file with the treasurer, on or before the first day of April in each year, a written nomination for the trustee or trustees to be elected by the alumni at the next commencement. Forthwith after such first day of April a list of such candidates shall be mailed by said treasurer to each alumnus at his address. [*Added by L. 1883, ch. 423.*]

Vote for trustee by alumni. § 16. Each alumnus may send to said treasurer, over his signature at any time before the meeting of the alumni for the election of such trustee or trustees, the vote for such trustee or trustees which he would be entitled to cast if personally present at such meeting, which such votes such treasurer shall deliver to such meeting, to be opened and counted at said election together with the votes of those who are personally present; but no person shall have more than one vote. The person having the highest number of votes upon the first ballot shall be declared trustee, provided said person has received at least fifty per cent of all the votes cast. Otherwise the alumni personally present at said commencement shall, from the two having the highest pluralities, elect a trustee, unless their pluralities shall aggregate less than fifty per cent of the votes cast, in which case there shall be included in the number of those to be voted for so many of those coming after such two in order of pluralities, as shall bring the aggregate of such pluralities of those to be voted for to fifty per cent of the votes cast. [*Added by L. 1883, ch. 423.*]

L. 1866, Chap. 481 — An act to authorize and facilitate the early disposition by the comptroller of the lands or land scrip donated to this state by the United States.

Comptroller to fix price; to whom he may sell; security to be given by purchaser.
SECTION 1. The comptroller is hereby authorized to fix the price at which he will sell and dispose of any or of all the lands or land scrips donated to this state by the United States of America, by act of congress approved July second, eighteen hundred and sixty-two, and entitled "An act donating public lands to the several states and territories which may provide colleges for instruction in agriculture and the mechanic arts." Such price shall not be less than at the rate of thirty cents per acre for said lands. He may contract for the sale thereof and sell the same to the trustees of the Cornell University. If the said trustees shall not agree with the said comptroller for the purchase thereof, then the commissioners of the land office may receive from any person or persons an application for the purchase of the whole or any part thereof at the price so fixed by the said comptroller, and may, if they are satisfied that the said person or persons will fully carry out and perform the agreement hereinafter mentioned, sell the same or any part thereof to the said person or persons. But said trustees or such person or persons shall at the same time make an agreement and give security for the performance thereof to the satisfaction of the comptroller, to the effect that the whole net avails and profits from the sale of scrip or the location and use by said trustees, person or persons, of the said lands or of the lands located under said scrip, shall from time to time, as such net avails or profits are received, be paid over and devoted to the purposes of such institution or institutions as have been or shall be created by the act chapter five hundred and eighty-five of the laws of eighteen hundred and sixty-five, of the state of New York, in accordance with the provisions of the act of congress hereinbefore mentioned. And the said trustees, person or persons to whom the said lands or scrip shall be sold, shall report to the comptroller annually, under such oath and in such form as the comptroller shall direct, the amount of land or scrip sold, the prices at which the same have been sold, and the amount of money received therefor, and the amount of expenses incurred in the location and sale thereof.

Examination by comptroller. § 2. The comptroller is authorized from time to time as he shall see fit, to make such examination into the actions and doings of his vendees of said lands or scrip therewith as he shall deem necessary to ascertain and determine what are the net avails of the said lands or scrip from the sale or from the location and use thereof by his said vendees.

[Supplementary Title.]

TITLE 4^c.

Of other Funds; and of Provisions relating to two or more Funds, to State Loans, and to other Matters connected with State Finances.

L. 1845, Chap. 37 — An act for the relief of the American Seaman's Friend Society in the city of New York.

Money may be retained, without interest. **SECTION 1.** The trustees of the American Seaman's Friend Society may retain, without interest, the loan of ten thousand dollars granted to them by the act entitled "An act for the relief of the Ameri-

can Seaman's Friend Society in the city of New York," passed April 27th, 1840, so long as the said trustees shall faithfully use and apply the same to promote the benevolent objects of the Sailors' Home, erected for the boarding and accommodation of seamen in said city.

Authority to mortgage. § 2. The trustees may mortgage their real estate in the city of New York, called the Sailors' Home, for a term not less than seven years, to secure the debts due from, or money loaned, or that shall be loaned to them for the purpose aforesaid, to an amount not exceeding fifteen thousand dollars; which mortgage or mortgages shall be liens thereon prior to the lien held by this state to secure the loan mentioned in the first section of this act: Provided however, that all other liens and incumbrances on said real estate be discharged and cancelled of record.

Sale under foreclosure to be on notice. § 3. No sale of the said Sailors' Home upon the foreclosure of any mortgage given by virtue of this act, being a lien thereon prior to the lien of the state, shall be had without at least six weeks previous notice of such sale to the comptroller of this state personally.

L. 1880, Chap. 317—An act to transfer to Cornell University the securities, moneys and contracts constituting and relating to the Cornell endowment fund.

Comptroller to transfer securities. SECTION 1. The comptroller of the state is hereby authorized and directed upon request of Cornell University, to assign, transfer, pay and deliver unto said Cornell University all moneys, securities, stocks, bonds and contracts, constituting a part of or relating to the fund known as the Cornell endowment fund, now held by the state for the use of said university.

L. 1830, Chap. 184—An act concerning the literature fund, Oswego canal fund, and the Erie and Champlain canal fund.

Transfer of stock. SECTION 1. The comptroller, under the direction of the commissioners of the canal fund, is hereby required to transfer to the literature fund, as of the first of January last, the bonds and mortgages now in his office, given for lands sold which belong to the Oswego canal fund, for five per cent canal stock which is now held by the regents of the university as a part of the literature fund; and the regents of the university shall transfer to the commissioners of the canal fund, so much of the five per cent canal stock held by them, as shall be equal to the amount of said bonds.

How to be credited. § 2. The said stock, when received by the commissioners of the canal fund, shall be credited, or so much thereof shall be credited, on the debt due from the Oswego to the Erie and Champlain canal fund, as will satisfy the debt now due from the former to the latter fund, and the certificates of stock to that amount shall be cancelled.

Residue of stock. § 3. The residue of the stock which shall be so transferred, beyond the amount necessary to pay the Oswego canal debt now due to the Erie and Champlain canal fund, shall be redeemed by the said commissioners out of the surplus revenue of the Erie and Champlain canal, the certificates of stock cancelled, and the amount credited to the Oswego canal fund.

Interest. § 4. The interest due upon the bonds authorized to be transferred by this act, at the time of such transfer, shall be entered and considered as a part of the capital of the literature fund; and whenever an amount of interest shall be paid upon the said bonds, equal to the amount due at the time of such transfer, such amount shall be invested as a part of the capital of the literature fund.

L. 1830, Chap. 242 — An act to facilitate the transfer of the public stocks of this state.

[Sections 1 and 3 of this act are omitted as temporary.]

Rules and regulations. § 3. The commissioners of the canal fund shall, from time to time, prescribe such rules and regulations, to be in accordance with existing statutory provisions, relative to the transfer of all or any of the public stocks of this state, and the division and consolidation of the certificates thereof, as they shall think advisable and proper; and may alter and modify the same. The said commissioners may also require such returns to be made to the comptroller, by the officer or person authorised by law to transfer said stocks, and pay the interest on any loan, as they may deem reasonable and expedient.

L. 1831, Chap. 320 — An act relative to the finances of this state, and the duties of the comptroller and the commissioners of the canal fund.

Transfer of stock to be made. SECTION 1. The comptroller, in conjunction with the superintendent of common schools, is hereby authorised and directed to select from the bank stock and bonds and mortgages belonging to the general fund, a portion thereof, sufficient to discharge the balances due by that fund to the common school and literature funds, and to transfer the stock and securities so selected, to the said funds respectively, to the amount of their respective balances.

Comptroller to prepare certificates of stock. § 2. It shall be the duty of the comptroller, from time to time, to prepare and deliver to the cashier of the Manhattan company, or such other officer as shall at any time be designated or authorized to issue certificates of stock created or to be created under the laws of this state, suitable books, containing certificates of stock, of the form and description, as near as may be, as are now used; which said certificates shall be filled up in the handwriting of said comptroller, or such one of the clerks in his office as he shall from time to time designate, of the following denominations: one dollar, fifty dollars, one hundred dollars, three hundred dollars, five hundred dollars, one thousand dollars, three thousand dollars, five thousand dollars, ten thousand dollars, and twenty thousand dollars: and said certificates shall be numbered and signed by the comptroller, with the addition of his name of office. Said books shall also be prepared with broad and proper margins, in which shall be written out, at length, the denominations or amounts of said certificates, with the corresponding numbers, and shall be signed by the comptroller.

Certificates returned to be preserved. § 3. It shall be the duty of the cashier of the Manhattan company, or such other officer as shall be authorised or designated to issue certificates of stock, to preserve all certificates returned to him; and whenever he shall issue certificates of stock, after he shall be furnished with the books in the last section mentioned, he shall take them from said books, and sign and date the same; and he shall write in the margin the date when, and the person to whom, any certificate shall have been issued.

Books to be delivered to comptroller. § 4. On the fourth Monday of September in each year, it shall be the duty of the comptroller to receive from the said cashier or other officer as aforesaid, all such books, the certificates from which shall have been cut, and to receive and compare therewith the certificates of stock returned; and if the amounts correspond, after the necessary allowance for any new stock authorised to be issued by this state, to furnish said cashier or other officer with the proper voucher thereof.

And to be preserved by him. § 5. It shall be the duty of the comptroller to preserve the books and certificates returned (after seeing that said certificates are cancelled), in some proper and safe place of deposit.

To give notice of new certificates to be issued. § 6. It shall be the duty of the comptroller to give notice, in two of the public newspapers printed in the city of New York, and in such other papers as he shall deem proper, and to renew the same from time to time, that new certificates of stock will be issued, of the form pointed out in the second section of this act, and to request the holders of certificates of stock to surrender and cancel their old and receive such new certificates.

Stock surrendered. § 7. It shall be the duty of said cashier, or such officer as shall be designated in his place as aforesaid, whenever any certificate of stock shall be surrendered and cancelled as aforesaid, to issue new certificates from the aforesaid books, and to write in the margin thereof, "stock surrendered;" and the certificates so cancelled, shall be preserved and delivered to the comptroller.

Certificates for fractional parts. § 8. In case any one of the denominations of certificates does not correspond with the stock transferred or cancelled as aforesaid, certificates of different denominations may be issued to meet the amount; and in case the holders of stock prefer selling the fractional parts of their stock, less than one hundred dollars, to receiving certificates therefor, the said cashier, or other officer appointed in his place, is directed to purchase any said fractional parts; and the comptroller is directed to pay over to said cashier, or other officer designated in his place, the necessary moneys to meet advances under this section, and charge the same to the funds of the Erie and Champlain canals.

Cashier to furnish statement to comptroller. § 9. It shall be the duty of the comptroller, to obtain from the cashier of the Manhattan company, on or before the thirtieth day of September next, a statement of all certificates of stock, issued by the said cashier in behalf of this state, in which shall be specified the date of every such certificate, its amount and the person to whom issued.

Comptroller to make schedules of all debts due the state. § 10. The comptroller shall, on or before the first day of September next, prepare a schedule of all debts due this state, which constitute a part of the general fund, and were contracted during or previous to the year one thousand eight hundred and twenty-one, and for which the state hold no security by way of mortgage or otherwise on real estate and the real estate mortgaged for the security thereof has been sold or disposed of, and of all such debts belonging to the general fund, upon which no payment for principal or interest has been made within the last six years; which said schedule shall contain the name of the debtor, the amount due for principal and interest, and the time when the debt was contracted.

To publish notice thereof in state paper. § 11. As soon as said schedule is prepared, or before that time, he shall cause notice to be published in the state paper, that said schedule has been or will be prepared, and that unless the said debtors shall, on or before the first day of November thereafter, to be inserted in said notice, pay or compromise their respective debts, the schedule of those not settled, will be advertised for thirty days, in the state paper, for sale, and will be then sold at public auction; and the notice required by this section shall be published for thirty days.

To advertise for sale stock of Hudson and Columbia banks. § 12. It shall be the duty of the comptroller, on or before the fifth day of November next, to advertise for public sale, the stock belonging to this state in the bank of Hudson and in the bank of Columbia, and also the debts specified in the tenth section, which shall not have been paid, or which shall not have been compromised according to the provisions of this act; which said advertisement shall be published twice a week, for five weeks, in the state paper, and shall specify the time and place of sale.

Also to sell debts so advertised. § 13. It shall be the duty of the comptroller, to sell at public auction, the stock specified in the last section, and all such debts as shall have been so advertised, and which shall not have been paid or compromised before the time of such sale, at such time and place in the city of Albany, as shall be designated in the said notice, unless the said comptroller shall become satisfied, as to any of said debts, that they ought not to be sold, but retained for prosecution.

On such sale to make transfer to the highest bidder. § 14. On such sale, the comptroller is authorised and directed to transfer to the highest bidder, any debt purchased by him; and the securities therefor held by the state, and the amount of said bid shall be paid at the time thereof, or the said debt shall again be put up, and the highest bidder aforesaid charged with the deficiency; and the said comptroller is directed to furnish to the purchaser a certificate of said transfer; and said certificate shall vest in the purchaser, all the rights of the people of the state of New York in said debt, and the right to commence suits thereon in his own name, as assignee of the state of New York; but said transfer or certificate shall not be considered as affording any guarantee or engagement, on the part of the state, of the legality, validity or amount of said debt, or to render it liable for any costs or charges arising from efforts to collect the same.

To compromise with debtors. § 15. The comptroller is hereby authorized to compromise any of the debts mentioned in the tenth section of this act, and to give releases therefrom; and he may require the oath of the debtor or his representatives, as to the extent of his or their ability to pay.

Fees allowed to comptroller for copies. § 16. In addition to the fees of office which the comptroller is now by law permitted to charge, he shall charge the same fees for copies of papers, records, engrossing, seal and certificate to be used in a court of justice, as are now chargeable by the secretary of state, and account for the same in the same manner.

[Section 17, which repealed part 1, ch. 8, tit. 8, §§ 10 and 11 of the R. S., was repealed by L. 1834, ch. 284, thereby reviving those sections. See *ante*, p. 531.]

Comptroller's annual report. § 18. It shall be the duty of the comptroller, in preparing his annual statement of the funds, to be laid before the legislature for the year one thousand eight hundred and thirty-two, to ascertain the amounts of the three following items of the general fund: First, for lands sold or contracted to be sold: second, for loans: third, for other debts due the state, from an examination of the securities constituting said items. And also to specify the several debts due the state, and belonging to said fund, for which the state hold no security by way of mortgage or lien on real estate, and when said debts fell due; and the statement to be exhibited every three years thereafter, shall be prepared in like manner: and every annual statement shall specify the amount due for interest on the three items above named, calculated to the day when the last fiscal year closed.

Clerk hire. § 19. There shall be paid by the treasurer, on the warrant of the comptroller, a sum not exceeding two thousand dollars, for clerk hire for the comptroller's office during the present year, in addition to the permanent appropriation for that object, now existing by law; and the said money, or so much thereof as it shall be necessary to expend, shall be drawn, expended and accounted for, in the same manner that other moneys are directed by law to be drawn, expended and accounted for, which are appropriated for clerk hire for the same office.

Treasurer's clerk hire. § 20. There shall be allowed annually to the treasurer, the sum of one thousand three hundred dollars, for clerk hire in his office, instead of the present appropriations for said office; which said sum shall be drawn and expended in the same manner as that appropriated for clerk hire in the office of the comptroller is directed to be drawn and expended, to commence on the first of May next.

May appoint a deputy. § 21. The treasurer is hereby authorised to appoint a deputy-treasurer, who may perform any of the duties of the treasurer, (except the signing of checks, and the duties of the treasurer as commissioner of the land-office, commissioner of the canal fund, and state canvasser,) and for whose conduct the treasurer shall be responsible.

Accounts of sheriffs and clerks. § 22. Accounts of sheriffs for paying the fees of clerks of counties for drawing grand juries, for attending the drawing of grand

juries, and for summoning constables to attend courts, shall hereafter be presented to and audited by the boards of supervisors of the counties respectively in which such service shall be rendered, and such accounts shall not hereafter be chargeable to this state.

Indian affairs. § 23. All laws authorising the payment of any moneys for incidental expenses attending Indian affairs are hereby repealed, and all annuities payable to Indians shall hereafter be paid by such agents residing in the vicinity of the Indians entitled thereto, as shall be authorised for that purpose by the comptroller; and such agents shall receive such compensation for their services, not exceeding one per cent on the amount disbursed by them, as the comptroller shall allow; a sum not exceeding five hundred dollars in any one year, may be drawn from the treasury by the person administering the government of this state, for incidental expenses in relation to Indian affairs, which sum shall be accounted for to the comptroller, with the vouchers for which it may be paid.

Fiscal year in treasurer's office. § 24. The present fiscal year of the office of the treasurer of this state shall close on the thirtieth day of September next; and the future fiscal years of that office shall be from the first day of October in the preceding, to the thirtieth day of September in the succeeding year, inclusive.

In comptroller's office. § 25. All books and accounts in the office of the comptroller, shall be kept and all the duties of that office shall be performed, with reference to the aforesaid change in the fiscal year of the treasurer's office, and in accordance with that change.

Officers when to close accounts. § 26. All officers and persons required to render annual accounts to the comptroller or treasurer, shall close those accounts on the thirtieth day of September in each year, and shall render such accounts as soon after that day, in every year, as may be practicable.

Commissioners of the canal fund. § 27. The annual report required from the commissioners of the canal fund, shall exhibit a statement of the funds entrusted to their care and management, from the first day of October in every preceding year, to the thirtieth day of September in every subsequent year, inclusive, and the accounts of the said funds in the comptroller's office, shall be kept in accordance with the provisions of this section; but the said commissioners, separate from their annual report above mentioned, shall prepare and lay before the legislature, with their annual report in each year, a full statement of all the tolls collected upon all the canals of the state during the season of navigation next preceding such session; and also a statement of the rates of toll on all articles transported on said canals, and a comparative statement showing the amount fixed by the Constitution, and the amount charged.

Repeal. § 28. All acts and parts of acts of the legislature of this state, inconsistent with or repugnant to any of the provisions of the preceding sections of this act, are hereby repealed.

L. 1832, Chap. 296 — An act for the support of the government of this state.

Comptroller to borrow moneys of the common school and literature fund in certain cases.
SECTION 1. Whenever there shall not be money in the treasury belonging to the general fund, sufficient for the purposes of the government, the comptroller shall take money belonging either to the common school or literature fund, and shall assign to the fund to which the money so taken belonged, an equal amount of good bonds and mortgages, or other good securities belonging to the general fund. In all cases of such assignment to the literature fund, the comptroller shall give notice to the chancellor or secretary of the regents of the university; and in case of all such assignments to the common school fund, the comptroller shall give notice to the superintendent of common schools; and upon such notice, the said chancellor, or secretary, or superintendent, shall attend to such assignment; and

no bond or mortgage, or other security shall be so assigned to the literature fund without the consent of the said chancellor or secretary, or to the common school fund, without the consent of the superintendent, which consent shall be endorsed upon the bond and mortgage, or other security so assigned. The interest accrued and unpaid upon the bonds and mortgages, or other securities so assigned, shall be added to the principal, and deemed part of the amount thereof.

Canal stock to be redeemed in certain cases. § 2. When there shall not be money in the treasury belonging either to the general fund, the literature fund, or the common school fund, and the money shall be needed for the purposes of the government, the comptroller shall give notice thereof to the commissioners of the canal fund, and they shall redeem with money belonging to the Erie and Champlain canals, the Erie and Champlain canal stock, held by and belonging to the literature and common school funds; and when all such stock shall be redeemed, the said commissioners shall purchase at par the stock of the Cayuga and Seneca, of the Oswego, and of the Hudson and Delaware canals, held by and belonging to either the literature or common school funds, in the order here mentioned, and in such portions and parcels as the wants of the general fund shall require; and the stock so purchased shall be assigned to and held by the commissioners of the canal fund, for the Erie and Champlain canals.

L. 1835, Chap. 260—An act regulating the specific funds of the state.

Bonds, etc., of general fund to be assigned to school fund. SECTION 1. The comptroller shall assign to the common school fund, all bonds and mortgages belonging to the general fund, and all bonds and mortgages which shall hereafter be received for account of the general fund, he shall annually, at the close of the fiscal year, assign as follows, viz.: First, such an amount thereof to the literature fund as shall be equal to the amount of capital that may at the time be due to that fund from the general fund; and second, the residue to the common school fund. The amount which shall be so transferred to the common school fund, shall be charged to that fund in the books of the comptroller's office, and shall be refunded to the general fund by current receipts into the treasury, on account of the capital of the common school fund.

Id., of literature fund. § 2. The comptroller shall assign to the common school fund, all bonds and mortgages belonging to the literature fund, and all bonds and mortgages which shall hereafter be received for account of the literature fund, including such as shall be assigned to that fund pursuant to the preceding section, he shall assign to the common school fund annually at the close of the fiscal year. And upon every such assignment, he shall at the same time transfer to the literature fund an equal amount of bank stock or public stock belonging to the common school fund.

Id., of canal fund. § 3. The comptroller shall assign to the common school fund, all bonds and mortgages belonging to the Erie and Champlain canal fund; and all bonds and mortgages which shall hereafter be received for account of the Erie and Champlain canal fund, he shall assign to the common school fund annually at the close of the fiscal year. Upon every such assignment he shall at the same time transfer to the commissioners of the canal fund an equal amount of canal stock belonging to the common school fund: And if the stock so transferred shall be Erie and Champlain canal stock, the said commissioners shall cancel the same; but if it shall be Oswego canal stock, it shall be held by them on account of the Erie and Champlain canal fund.

Id. of Oswego canal fund. § 4. The comptroller shall assign to the common school fund, all bonds and mortgages belonging to the Oswego canal fund; and all bonds and mortgages which shall hereafter be received for account of the Oswego canal fund, he shall assign to the common school fund annually at the close of the fiscal

year. Upon every such assignment, he shall at the same time transfer to the commissioners of the canal fund an equal amount of canal stock belonging to the common school fund; the stock so transferred shall be cancelled by the said commissioners; and if it shall be Erie and Champlain canal stock, they shall pay the amount thereof to the Oswego canal fund out of the moneys belonging to the Erie and Champlain canal fund.

Time of assignment. § 5. The bonds and mortgages directed by this act to be assigned immediately, and the stocks to be transferred at the same time, shall be so assigned and transferred as of the thirtieth day of September, one thousand eight hundred and thirty-four; but if there shall be any loss to the school fund by any of the bonds assigned to it by virtue of this act, the amount of such loss shall be repaid to the school fund from the general fund.

L. 1836, Chap. 356—An act to replenish the general fund by loans from the canal fund.

Annual loan to general fund. SECTION 1. Whenever a sufficient amount of money shall have been collected and safely invested to pay the principal and interest of the debt created for the construction of the Erie and Champlain canals, it shall be the duty of the commissioners of the canal fund, annually to loan to the treasury of this state, for the use and benefit of the general fund, from moneys belonging to the canal fund, the sum of four hundred thousand dollars.

Accounts, how to be kept. § 2. The comptroller shall so keep his accounts, as to be able, at any time, to state an account between the canal fund and the general fund under this act; and the general fund shall stand charged on the books of the comptroller as a debtor to the canal fund, for all sums of money loaned from that fund to the general fund; and the faith of the state is hereby pledged to repay to the canal fund any amount that may be necessary to pay off and liquidate all debts and legal charges against the general fund, to the amount that may be loaned or advanced to the general fund under the provisions of this act.

Under act of 1835. § 3. The sum of three hundred thousand dollars, reserved by the ninth section of the act entitled "An act in relation to the Erie canal," passed May 11, 1835, may be loaned under this act, and shall be considered as making part of the sum hereby authorized to be loaned when that section shall take effect.

L. 1837, Chap. 360—An act in relation to state loans.

Banks may subscribe to loans. SECTION 1. It shall be lawful for any bank within this state to subscribe to any of the loans which the commissioners of the canal fund are authorized to make on account of the Chenango, Black River and Genesee Valley canals, and from time to time to sell and dispose of any stock issued on account of said loans, any clause, matter or thing in the acts incorporating the same to the contrary notwithstanding.

L. 1840, Chap. 288—An act respecting state stocks, the commissioners of the canal fund, and the canal board.

Office for issue and transfer of stock to be established by a bank in New York. SECTION 1. The commissioners of the canal fund are hereby authorized to contract, in behalf of the people of this state, with any bank in the city of New York, to establish an office in such bank for the issue and transfer of certificates of any stock authorized by the laws of this state, for any loans made in its behalf by the comp-

troller or the said commissioners, and to allow such compensation as shall be reasonable for conducting the said business. The said commissioners may change or terminate any such contract, and make other like contract with any bank in the city of New York.

Responsibility of such bank. § 2. The bank with which any such contract shall be made, shall be responsible to the people of this state for the faithful and safe conducting the business of the said office, for the fidelity and integrity of the officers and agents of the bank employed in such office, and for all loss or damage which may result from any omission to discharge their duties, and for any improper or incorrect discharge of those duties.

Transfers of stock. § 3. All certificates of stock heretofore or hereafter issued under the authority of this state for any loan made in its behalf, by the comptroller or the said commissioners, shall be transferable only at the office so established, according to the regulations which shall be prescribed by the said commissioners, which regulations shall be obligatory on all persons having any interest in such certificates.

Certificates of stock how issued. § 4. Certificates of stock which shall be hereafter issued for any loan authorized in behalf of the people of this state, shall be prepared, numbered, signed and issued in the manner provided by chapter three hundred and twenty of the laws of eighteen hundred and thirty-one; except that the same may be in any sums not less than one hundred dollars, as the commissioners of the canal fund may direct; but in addition to the signature of the comptroller, he shall cause such certificate to be sealed with his seal of office, and the same shall be countersigned by the president or cashier of the bank in which such transfer office shall be established, who shall also countersign the memorandum in the margin of the book from which any certificate shall be cut.

Regulations of issues and transfers. § 5. The commissioners of the canal fund may prescribe such farther and other regulations as they may deem necessary to guard against the issue or transfer of any stock without authority, and for the keeping and rendering the accounts of the transactions of the transfer office, and for requiring vouchers of all transfers made; and upon the rendering of such accounts and vouchers, to furnish the bank with which such contract shall be made proper evidences thereof; and they, or any one of them, or any person deputed by them for that purpose, may, during the usual hours of business, inspect the books, papers and accounts in the said office.

Persons may be designated to authorize transfer of stock. § 6. Any person, firm or company, or any number of persons, firms, or companies, holding or intending to hold and own any certificate of stock heretofore or hereafter issued under the authority of this state, may, by an instrument in writing signed by them and duly acknowledged or proved, in the manner required by law to entitle any conveyance of land to be recorded, designate and depute the person or persons who shall execute powers of attorney, authorizing the transfer of any such certificates of stocks, then or thereafter to be held and owned by such person or persons, firm or firms; and may, in like manner, modify or revoke such instrument; and all transfers of such certificates of stock made pursuant to powers of attorney, executed by the person so designated, shall be valid and effectual to pass the interest of all the parties who executed such instrument, in any certificates of stocks of which the said parties shall be or shall thereafter become the legal owners, until such instrument of modification or revocation, duly acknowledged or proved in manner aforesaid, shall be served at the transfer office, established under this act.

Designation not revoked by death or withdrawal of one of a firm. § 7. If any such certificate of stock shall be held by any firm or company in hypothecation, pledge or deposit, or in trust for the benefit of others, and the purpose of holding the same shall be expressed in the instrument designating persons to authorize the transfer of the said certificates, such instrument shall not be deemed revoked by the death or withdrawal from such firm of any member thereof, so long as such firm or company shall continue to exist.

Powers of attorney to transfer stock, how verified. § 8. Powers of attorney to transfer any certificates of stock, acknowledged or proved before any officer authorized to take the proof of conveyances of land in this state, in the manner required to entitle such conveyance to be recorded, or acknowledged by a resident of any foreign country before a public notary of such country, by the party holding such certificate, or his agent, empowered or designated for that purpose, shall authorize the transfer of such stocks subject to the regulations that may be prescribed as herein before provided.

Certificates lost may be renewed. § 9. When it shall satisfactorily appear on due proof to the commissioners of the canal fund that any certificate of stock issued for any loan made in behalf of this state, has been lost or casually destroyed, they may authorize the issuing to the lawful owner of such stock a new certificate corresponding in date, numbers and amount with the certificate so lost or destroyed, but expressing on its face that the same is a renewed certificate; but no such renewed certificate shall be issued until good security be given to satisfy the lawful claim of any person or persons to the said original certificate, or to any interest therein. The proofs on which such renewed certificates are issued shall be filed with the clerk of the said commissioners, and they shall report annually to the legislature the number and amount of the renewed certificates so issued.

To whom certificates to be issued in case of death of foreign owner; powers of attorney not revoked by death until notice. § 10. In case of the death of any person in any other state or foreign country, who at the time of such death was the lawful owner of any certificate of stock issued for any loan made in behalf of this state, if it shall appear by the decision of any tribunal of competent jurisdiction in the country of which such person was a resident at the time of his death, that such certificate has been devised to any person or persons, or that any relative of such deceased person has, by the law of such country, succeeded to his right and interest in such certificate, the commissioners of the canal fund may, in their discretion, authorize the issuing of new certificates of stock to the person or persons so entitled, on the delivery to them of the original certificates, and on security being given, if they shall require the same, to satisfy the lawful claim of any person or persons to the said original certificate or any interest therein. The death of the grantor of any power of attorney in any other state or country shall not be deemed a revocation of such power as against any *bona fide* assignee of such stock until actual notice of such death.

Certificates when to be issued to executors, etc. § 11. Where letters testamentary shall have been granted on the personal estate of any person who at the time of his death was a resident of any other state or foreign country, and was the lawful owner of any such certificate of stock, by the competent tribunal of the country in which such person died, or where judicial evidence of the appointment by any such person of an executor of his personal estate, or of the appointment of any person having by the laws of such country the right to take possession of such personal estate shall be given to the commissioners of the canal fund, they may authorize the issuing of new certificates of stock to such executor or person in place of such original certificate upon the surrender to them of such original certificate; and on such security being given to them as they may require to satisfy the lawful claim of any other person or persons to the said original certificate, or to any interest therein.

Chief clerk and other clerks to commissioners of canal fund. § 12. The commissioners of the canal fund shall appoint a chief clerk and such other clerks as may be necessary. The chief clerk shall also be clerk of the canal board, and shall receive the compensation, possess all the powers and perform all the duties of the second deputy comptroller as now provided by law; and the said office of second deputy comptroller is hereby abolished. The commissioners may allow and pay to the clerks employed by them, a compensation not exceeding three thousand dollars annually; which, with the salary of the chief clerk, shall be paid monthly

out of the canal fund; and the names of the clerks employed and the sums paid to each shall be annually reported by the commissioners to the legislature.

Tolls to proprietors of Albany pier. § 13. The portion of tolls collected on the Erie and Champlain canals directed by chapter one hundred and eleven of the laws of eighteen hundred and twenty-three to be paid to the proprietors of the Albany pier, shall hereafter be paid directly by the commissioners of the canal fund out of the canal revenues.

Payment of damages for land, etc., taken. § 14. Before the commissioners of the canal fund shall be required to pay any damages that may have been or may be awarded for any land, waters or streams taken by the canal commissioners and appropriated to the public use, they shall be furnished with a certificate from the canal commissioners that the land and premises for which such damages have been awarded, have been taken and appropriated for the public use, and have been taken possession of by the canal commissioners in behalf of the state.

[Section 15, relating to canal tolls, obsolete.]

Certiorari to supreme court on awards of appraisers. § 16. The commissioner of the canal fund or the canal commissioners may in their discretion cause a certiorari to be brought by the attorney-general, in behalf of the state, from the determination of the canal appraisers upon any legal or constitutional question, to the supreme court, in cases where any damages have been or shall be awarded upon any claim for the deprivation of any right or pretended right, to the use of any water or water privileges or fisheries, or for the temporary use or diversion of any water by the canal commissioners.

Proceedings thereon. § 17. Such certiorari shall be brought within the time prescribed by law in reference to appeals in similar cases to the canal board, and the appraisers shall make a return in writing to the supreme court within the time and containing the same matters as required in cases of such appeals; and the supreme court shall determine such certiorari on such returns only, or upon such further returns as the said court may require, and may set aside such appraisal for want of jurisdiction in the appraisers, or for any error committed by them in such determination, except as to the amount of damages awarded, and may award costs in their discretion; and any party interested may bring a writ of error on the judgment of the supreme court on such certiorari, to the court for the correction of errors.

Not to prevent certain appeals. § 18. Such certiorari or any judgment thereon shall not prevent an appeal, as now provided by law, to the canal board, in respect to the amount of any damages awarded by the canal appraisers.

L. 1847, Chap. 258 — An act appropriating the annual revenue of the literature and United States deposit funds of the years 1847 and 1848.

[Sections 1-4 are omitted as temporary.]

Separate accounts to be kept. § 5. The treasurer shall hereafter keep a separate book account for all moneys that may belong to the United States deposit fund, and a like separate account for all moneys that may belong to the literature fund, and the interest that may be received on the said accounts, shall be carried at the close of each fiscal year to the credit of the income of said funds respectively.

[Section 6 is omitted as temporary.]

[For § 7, see *ante*, p. 570.]

L. 1848, Chap. 366 — An act to authorize the comptroller to make temporary loans to supply any deficit in the treasury.

U. S. deposit fund when to be invested. § 3. Whenever there shall be any money in the treasury belonging to the United States deposit fund, it shall be the duty of the comptroller to invest the same in such of the public stocks of this state, or subscribe the same to such of the public loans of this state as he shall deem most

for the interest of said fund, or with the assent of the secretary of state he may loan or invest the same in such bonds and mortgages or stocks of the United States as they may deem most beneficial to said fund.

[The remainder of this act is temporary or obsolete.]

L. 1849, Chap. 228 — An act in relation to claims upon the canal fund, and expenses not provided for.

Money may be borrowed; interest. SECTION 1. If the legislature, the canal board, commissioners of the canal fund, or canal commissioners, shall at any time, by virtue of constitutional and legal authority vested in them, authorize or require the payment of any sum of money out of the canal fund, for any purpose connected with the canal expenditures, to which the revenues of the canals are not applicable under the restrictions of the Constitution, the commissioners of the canal fund shall be authorized, under the tenth section of the seventh article of the Constitution, to borrow such sum of money, payable in such time, not exceeding eighteen years, and bearing such rate of interest, not exceeding seven per cent per annum, as they may deem most beneficial to the interests of the state; and the comptroller shall be authorized to issue stock therefor, in the manner provided by law for the issue of stock in other cases.

L. 1857, Chap. 721 — An act authorizing the issue of the new certificates of state stock and comptroller's bonds, in case of loss by the holders.

Renewed certificate. SECTION 1. When it shall satisfactorily appear, on due proof, to the comptroller, that any certificate of stock or bond, issued by him on account of the general fund, state debt, or temporary loan to the treasury, has been lost or casually destroyed, he may issue to the lawful owner of such stock or bond a new certificate or bond, corresponding in date, number and amount with the certificate or bond so lost or destroyed, by expressing on its face that the same is a renewed certificate or bond; but no such renewed certificate shall be issued until good security be given to satisfy the lawful claim of any person or persons to the said original certificate or bond, or to any interest therein. The proofs on which such renewed certificates or bonds are issued shall be filed in the comptroller's office, and he shall report annually to the legislature the number and amount of the renewed certificates or bonds so issued.

L. 1887, Chap. 245 — An act in relation to the trust funds of this state.

Comptroller may invest in certain securities; may dispose, exchange, etc. SECTION 1. In addition to the investments now authorized by law of the principal of the common school fund, the literature fund and the United States deposit fund, the comptroller may hereafter invest the principal of the said funds in the public securities of the villages, towns, cities and counties of this state; and when he shall deem it for the best interest of such funds, or either of them, he may dispose of any of the public securities held therein, in the making of investments authorized by law, and he may exchange the securities of any one of said funds for those held in any other of said funds; and he may also hereafter with the approval of the commissioners of the canal fund, and upon such terms as shall be approved by them, transfer to the canal debt sinking fund, in exchange for securities held in said fund, any securities held for either of said other funds. [*Thus amended by L. 1888, ch. 464.*]

L. 1887, Chap. 637 — An act to establish a prison fund and to designate the sources and purposes thereof.

Prison fund established; of what to consist, etc. SECTION 1. There shall be established in the treasury of this state a fund which shall be known and designated

as the prison fund; it shall consist of all moneys raised by taxation for prison purposes or heretofore appropriated and unexpended therefor, and all moneys arising from the sale of the products or property of the prisons, and all such moneys, whenever received in the treasury, shall be placed to the credit of such fund; and all appropriations made for any of the prisons of this state (except for repairs other than the ordinary repairs thereof), for the maintenance thereof, for the purchase of materials therefor, and for manufacturing therein, shall be paid by the treasurer from such fund, upon the warrant of the comptroller.

TITLE V.

ART. 1

Of the Public Lands, and the Superintendence and Disposition thereof.

- ART. 1.—Of the general powers and duties of the commissioners of the land-office.
 ART. 2.—Of the survey and appraisement of unappropriated lands, previous to sale.
 ART. 3.—Of the sale of the unappropriated lands, and the execution of grants therefor.
 ART. 4.—Of grants of land under water.
 ART. 5.—Regulations concerning the protection of the public lands, and the payment of charges thereon.
 ART. 6.—Of the duties of the commissioners of the land-office, in regard to lands belonging to the canal fund.

ARTICLE FIRST.

OF THE GENERAL POWERS AND DUTIES OF THE COMMISSIONERS OF THE LAND-OFFICE.

- SEC. 1. To superintend the public lands, and to direct the granting thereof.
 2. What number may execute the powers of the board.
 3. Secretary of state to convene commissioners; who to preside at meeting.
 4. Deputy secretary to be clerk; his duty.
 5. Commissioners to prescribe form of letters patent; reservation of gold and silver mines.
 6. Commissioners to make compensation for failure of title to lands purchased of state.
 7. Commissioners may lease improved lands of state.
 8. Expenses incurred by commissioners to be paid out of treasury.

SECTION 1. The commissioners of the land-office shall have the general care and superintendence of all lands belonging to this state, the superintendence whereof is not vested in some other officer or board. They shall also have power to direct the granting of the unappropriated lands of the state, according to the directions from time to time to be prescribed by law. To superintend public lands. 5 Cow., 460. [198]

[1 R. L., 292, § 1.]

§ 2. All the powers now vested or hereafter to be vested in the commissioners, may be executed by a majority of the board, or by any three of them, if the surveyor-general be one of such three. Majority to act.

[1 R. L., 292, § 1.]

§ 3. The secretary of state shall convene the commissioners, as often as may be necessary for the transaction of business. At every meeting, the lieutenant-governor, if present, shall preside; if he be absent, the members present shall choose their chairman. How convened.

[1 R. L., 292, § 2; L. 1815, 10, § 5.]

TITLE 5. § 4. The deputy-secretary of state shall be clerk to the commissioners, and shall enter the minutes of their proceedings in a book to be provided for the purpose, which shall be kept in the secretary's office, in proper order, with the papers and documents which may be presented to the board.

[1 R. L., 292, § 2; L. 1815, 10, § 5.]

Patents. § 5. All letters patent hereafter to be granted, shall be in such form as the commissioners shall direct, and shall contain an exception and reservation to the people of this state, of all gold and silver mines.

[1 R. L., 293, § 5.]

To refund monies in certain cases. § 6. Whenever the title of the people of this state, to lands granted under its authority shall fail, and a legal claim for compensation, on account of such failure, shall be preferred by any person entitled thereto, it shall be the duty of the commissioners to direct the payment of the original purchase monies, which may have been paid to the state by such person, with interest at the rate of six per cent. from the time of such payment, to be paid out of the treasury, on the warrant of the comptroller.

[See § 2, Title 8, ch. 9, p. 185.]

[1 R. L., 293, § 6; L. 1826, 226, § 1.]

To lease certain lands. § 7. The commissioners may, from time to time, lease for terms not exceeding one year, and until the same can be disposed of as required by law, all such lands belonging to the state as have improvements on them, and which are not appropriated to any immediate use; and such leases shall contain proper covenants to guard against trespasses and waste.

[L. 1819, 300, § 3.]

Expenses; how paid. § 8. All expenses necessarily incurred by the commissioners, in the discharge of the duties that are or shall be enjoined on them by law, shall be audited by the comptroller, and paid out of the treasury.

[L. 1819, 301, § 4.]

L. 1830, Chap. 268 — An act relating to the public lands.

Lands belonging to canal fund. SECTION 1. The comptroller is hereby directed to transfer upon the books of his office, from the general fund, and to charge to the canal fund, all the expenses heretofore paid for the survey and appraisement of the lands ceded to this state by the Holland land company, for the benefit of the canal fund.

Charges and assessments on certain public lands. § 2. The commissioners of the land office are hereby authorised, in their discretion, and when they shall think it for the interests of the state so to do, to order the treasurer, upon the warrant of the comptroller, to pay off and cancel any charges, assessments or incumbrances, existing upon any lands which shall have been bought in by the state upon the foreclosure of mortgages, so as to perfect in the state a title to any such lands.

Surveys, etc., to what fund to be charged. § 3. All expenses of survey, appraisement, or any other expenses attendant upon the sale of any lands belonging to any of the special funds of this state, shall hereafter be chargeable upon and paid out of the funds respectively to which any such lands belong.

[Section 4 is omitted as temporary.]

L. 1836, Chap. 457 — An act in relation to the sales of land by the attorney-general and surveyor-general.

[Sections 1 and 2 relate to sales made under title 6 of this chapter, and will be found on p. 654, *post.*]

Resales by surveyor-general. § 3. On every resale of any lands by the surveyor-general, pursuant to the forty-sixth section of title five of the aforesaid chapter, he shall execute a certificate thereof to the purchaser, specifying the terms of the sale, the amount paid by the purchaser, and that the lands are subject to redemption, pursuant to the provisions of this act; and in case the premises shall be redeemed as hereinafter provided, the sale shall be void and of no effect.

Time for redemption. § 4. The original purchaser of any land so resold by the surveyor-general, his heirs or assigns, may redeem the same at any time within three months after such sale.

Interest. § 5. The fourteenth section of title six of the aforesaid chapter, and the last clause of the fifteenth section of the same title, as amended by the second section of this act, shall apply to the redemption of lands sold by the surveyor-general.

Sale, when to be completed. § 6. If the premises resold shall not be redeemed, the purchaser shall complete the sale immediately after the expiration of the three months, by paying into the treasury the amount that may remain due on the land, and receiving a patent, or by executing the proper bond, and receiving a certificate of the sale.

First certificate to be surrendered. § 7. On completing the sale pursuant to the last section, the purchaser shall surrender the certificate mentioned in the third section of this act, and the new certificate to be issued by the surveyor-general shall state, in addition to the other matters required by law, the time when the sale was made, and that the lands have not been redeemed.

Accounts. § 8. No account for lands shall be opened at the comptroller's office for a less sum than fifty dollars.

Repeal. § 9. The act entitled "An act in relation to the sales of lands by the surveyor-general and attorney-general," passed May 11, 1835, is hereby repealed, and this act shall take effect on the passage thereof.

L. 1839, Chap. 134 — An act to compel the attendance of witnesses before the board of commissioners of the land-office.

Power of the commissioners of the land office. SECTION 1. The commissioners of the land-office may require the attendance of any person as a witness on the part of the state, whenever in their opinion the interest of the state may render it proper, in relation to any application that is or may be pending before them; and for that purpose they may issue subpoenas, which shall be signed by their chairman for the time being, commanding any such person to appear and testify before them, relative to the subject of such application, and to bring forward and produce to them, any writings, books or papers, that may be designated in such subpoena in his possession, or within his control; and every person who, after being served with such subpoena and tendered the legal fees, shall without reasonable cause, refuse or neglect to appear and produce such writings, books or papers, or appearing, shall refuse to testify as to any facts within his knowledge relative to the subject matter of such application, shall forfeit one hundred dollars to the people of this state, and shall be liable to be committed to prison by the said commissioners until he shall submit to testify and produce such writing, books or papers: and all expenses necessarily incurred in procuring the attendance of any witness and his legal fees, upon being certified by the said commissioners, shall be paid by the treasurer on the warrant of the comptroller.

L. 1841, Chap. 70 — An act to authorize the commissioners of the land-office to grant parts of lots sold by the state.

Parts of lots may be granted. SECTION 1. Whenever any person shall pay in full for any part of a lot sold by the surveyor-general of this state, and the same shall be certified by the comptroller, according to the thirty-eighth section of article third of title third of the eighth chapter of the first part of the Revised Statutes, it shall be the duty of the comptroller to endorse the portion of principal so paid upon the obligation executed by the purchaser for the whole lot, and letters patent for the part so paid in full may be issued.

Former grants confirmed. § 2. All grants heretofore made by the commissioners of the land-office of parts of lots, for which payments were made and certified in the manner prescribed by law are hereby confirmed.

L. 1869, Chap. 196 — An act to define more particularly the powers of the commissioners of the land-office.

Commissioners' power to inquire. SECTION 1. Whenever the commissioners of the land-office by any existing statute have power to make a grant of any lands or interest therein to any party, they shall have power summarily to inquire into the rights of such party thereto, upon such proof as by regulation they shall prescribe; but this act shall not apply to grants of land under water.

L. 1883, Chap. 470 — An act in relation to state lands.

Tenant in common or joint tenant may, with consent of comptroller, maintain action for partition; how summons served. SECTION 1. Whenever the state of New York owns an undivided interest with any person in any real estate within this state, or holds and is in possession of any such real property, as joint tenant or tenant in common with any person within this state who has an estate of freehold therein, any such person may, upon obtaining the consent in writing of the comptroller thereto, maintain an action for the partition of said property according to the respective rights of the parties interested therein, and for a sale thereof if it appears that a partition cannot be made without great prejudice to the owners, in the same manner as if the state were not entitled to exemption from legal proceedings and with the same force and effect as in other cases, except no costs shall follow judgment thereon. A copy of the summons and complaint in such action shall be served upon the comptroller of the state and it shall be his duty to deliver the same to the attorney-general for proper appearance for the state.

Comptroller to purchase for state. § 2. In case any forest lands situated in the counties of Hamilton, Herkimer, St. Lawrence, Franklin, Essex, Clinton, Saratoga, Fulton or Lewis, in which the state is a joint owner or tenant in common with any person or persons, is sold in pursuance of a judgment of the court, as provided in section one of this act, the comptroller shall in behalf of the state attend the sale of said lands and purchase the same for the state, if said lands can, in the judgment of the comptroller, be purchased at their fair value.

Appropriation. § 3. For the purpose of paying for lands purchased upon partition sales, as provided in section three of this act, the sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any funds of the state not otherwise appropriated, such sums to be paid by the treasurer of the state upon the warrants of the comptroller. In case the funds hereinbefore appropriated shall at the date of entry of a judgment of partition, as herein provided,

be exhausted, the court shall, upon application of the attorney-general, direct that no sale be made until the expiration of two months after adjournment of the next session thereafter of the legislature.

Commissioners of land-office may sell abandoned canal lands, etc.; lands in certain counties not to be sold. § 4. The commissioners of the land-office may, in their discretion, sell any lands which have been any part of the canal lands of this state and which have been or may be determined and officially declared by the canal board to be abandoned by the state for canal purposes, and also any lands to which the state has acquired title by purchase, on the foreclosure of mortgages taken by any loan commissioner on the loan of certain United States deposit funds, or any loan of money authorized by this state, and also any lands lying within the corporate limits of any city or village and which has not been devoted by statute to some public use. The commissioners of the land-office shall have no power to lease any forest lands lying within the counties of St. Lawrence, Franklin, Lewis, Hamilton, Herkimer, Essex, Fulton, Saratoga and Warren.

Lands in Clinton county may be sold at private sale. § 5. The commissioners of the land-office are hereby authorized to sell and convey at private contract and sale all the right, title and interest of the people of the state of New York to any lands in the county of Clinton, on such terms as shall be for the best interest of the state; provided, however, that any such sale or sales shall be confined to lands from which the timber has been removed, and to actual settlers, and in tracts of not over two hundred acres in one parcel; and provided further such sales shall be confined to lands purchased for prison purposes. If any part of the price is unpaid at the time the grant is executed the payment of it with interest at the rate of six per cent per annum shall be secured by mortgage upon the land sold, and upon default of payment thereof of principal or interest, then the said commissioners are hereby authorized to foreclose said mortgage by sale of said land. No sale under the provisions of this act shall be made, except upon the recommendation of the comptroller of this state.

[Numerous special acts for the conveyance of particular parcels of state lands have been omitted.]

ARTICLE SECOND.

ART. 2.

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OF THE SURVEY AND APPRAISEMENT OF UNAPPROPRIATED LANDS, PREVIOUS TO SALE.

- SEC. 9. Commissioners of land-office to direct surveys of unappropriated lands.
10. Estimate of expenses to be certified to the comptroller.
 11. And to be paid by him.
 12. Surveyors to appraise each lot.
 13. Appraisal, returns, etc., to be delivered to surveyor-general, and copy to be filed in secretary's office.
 14. Surveyors to take an oath.
 15. If they make false return, guilty of perjury.
 16. Surveyor-general to make maps of each tract surveyed, where to be deposited, and copy where filed.
 17. Maps to be open to public inspection.

§ 9. The commissioners of the land-office may, from time to time, as often as they shall judge it to be for the interest of the state, direct the surveyor-general to cause actual surveys to be made of such parts of the unappropriated lands of this state as they shall direct.

[1 R. L., 295, § 11.]

- TITLE 5.** § 10. Whenever it shall become the duty of the surveyor-general to make a survey and sale of public lands, he shall obtain, from the commissioners of the land-office, a certificate, to be directed to the comptroller, containing their estimate of the expenses of such survey or sale.
Proceedings. [1 R. L., 295, § 19.]
- Ib.** § 11. He shall deliver such certificate to the comptroller; and the sum at which such expenses are estimated therein, shall be paid to him out of the treasury.
 [1 R. L., 295, § 19.]
- Lots to be appraised.** § 12. It shall be the duty of the surveyors who shall be appointed by the surveyor-general to survey any unappropriated lands, in order to a sale thereof, to appraise the value of each lot, exclusive of the improvements thereon, exceeding the value of twenty-five dollars.
 [1 R. L., 295, § 13.]
- Ib.** § 13. They shall deliver such appraisement, together with the returns of such surveys, and maps of the lots so surveyed, and a field-book, containing an account of the soil, timber, and local advantages of each lot, to the surveyor-general; who shall cause a copy to be filed in the secretary's office.
 [1 R. L., 295, § 13.]
- Oath of surveyors.** § 14. Every surveyor who shall be employed by the surveyor-general, to survey any unappropriated lands, and to appraise the value thereof, shall, before he proceeds to make such survey and appraisement, take and subscribe the oath prescribed by the Constitution, and shall file the said oath, certified by the person before whom the same shall be taken, in the surveyor-general's office.
 [200] [1 R. L., 295, § 23.]
- Penalty for false return.** § 15. In case any such surveyor shall wilfully and knowingly make a false return of the survey by him made, or shall wilfully and knowingly return an appraisal of the lands so surveyed, to the surveyor-general, variant from the true value thereof, or without having personally surveyed and explored the same, he shall be deemed guilty of wilful and corrupt perjury.
 [1 R. L., 295, § 23.]
- Maps to be made, &c.** § 16. The surveyor-general shall make, or cause to be made, a map of each of the tracts so directed to be surveyed, distinguishing on such maps the town and county in which the lots are situate; which maps shall be deposited in his office, and a copy thereof, to be furnished by him, shall also be deposited in the office of the secretary of state.
 [1 R. L., 295, § 14.]
- To be public.** § 17. Such maps and copies shall be open to the inspection of every person, during the stated hours of doing business in the said offices, until the lands described thereon shall be sold.
 [1 R. L., 295, § 14.]

L. 1831, Chap. 61—An act providing for the re-survey of the public lands.

Township number eleven to be re-surveyed. SECTION 1. The surveyor-general shall, within one year from the date hereof, cause township number eleven, of the old military tract, to be re-surveyed, and the lines and corners and numbers of the lots to be distinctly marked thereon, and an accurate map to be made of the same, a copy of which map shall be filed in the clerk's office of the town of Wilmington.

Other tracts. § 2. Whenever the commissioners of the land-office shall deem it necessary to have the lines of other tracts re-surveyed for the purpose of promoting the sale thereof, or for the better identifying the bounds of lots, it shall be lawful for them to direct the surveyor-general, to cause such surveys to be made.

ARTICLE THIRD.

ART. 3.

OF THE SALE OF THE UNAPPROPRIATED LANDS, AND THE EXECUTION OF GRANTS THEREFOR.

SEC. 18. Commissioners of land-office may direct sales of unappropriated lands.

19. To fix the minimum price, and to designate newspapers for the publication of notices.
20. To prescribe the amount of purchase money to be paid down.
21. All sales by surveyor-general to be in the city of Albany, unless otherwise directed by land office.
22. To give eight weeks' notice of time, etc., of sale.
23. Conditions of sale.
24. Penalty on purchaser for refusing to comply with conditions of sale.
25. If conditions complied with, surveyor-general to give purchaser certificate.
26. Rights acquired by purchaser, under a certificate.
27. Purchasers when entitled to letters patent, and to have their obligations canceled.
28. If certificate is lost or withheld, patent may be issued on proof of the fact.
29. When persons die, having pre-emptive right to lands, commissioners to decide on claims thereto.
30. To establish rules to prevent frauds under two last sections.
31. Lots not sold at public sale by surveyor-general, may be sold to first applicant.
32. Duty of applicant, number of lots which he may take.
33. If no application for unsold lots, minimum price may be reduced.
34. Occupant of certain lands, if sold, to recover value of improvements; value how to be ascertained.
35. When surveyor-general to appoint appraisers of improvements.
36. What deductions appraisers to make.
37. Expense of appraisal how paid.
38. Patent not to issue until value of improvements paid.
39. The five preceding sections not to extend to certain lands.
40. Person entitled to grant, dying before it issues, his heirs or devisees entitled to it, on complying with conditions, etc.
41. In case consideration is not paid, heirs or devisees to execute security therefor.
42. If heirs, etc., are not of full age, comptroller and treasurer to open account with them.
43. If account be paid, land to be granted; if not, to be sold at auction.
44. Persons entitled to a grant, to apply within twelve months.
45. If not so applied for, land to be sold.
46. If default be made in payment of obligations given for lands, commissioners may order land to be re-sold, and previous payments forfeited.
47. In what cases surveyor-general to bid in for the state lands, sold for the purchase monies due.
48. To sell lands so purchased, to applicant, giving preference to last owner.
49. If such lands are newly appraised, to be sold at appraised value.
50. Lands purchased for the state by the attorney-general, to be sold by surveyor-general, under directions of commissioners, etc.
51. Also, to sell lands purchased for the state by commissioners of loans, under the act of 1808.
52. If such re-sale be ordered, notice to be given to occupant to remove. Duty of district attorney.

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- TITLE 5. Sec. 53. Proceedings for the removal of occupant; duty and powers of sheriff.
 54. If person removed return without permission, how dealt with, and penalty.
 55. Fees of judge and sheriff.
 56. Upon a re-sale of lands, bonds to be delivered up and cancelled.
 57. If lands bought for the state, on a re-sale, commissioners to direct terms of sale.
 58. When commissioners to fix time for performance of conditions of a grant.
 59. Notice of time so fixed, how given.
 60. If conditions not performed within time so limited, grant forfeited.
 61 and 62. Terms on which lands in fourth senate district may be sold.
 63. Liabilities and duties of purchasers thereof.
 64. Duties of assessors in regard to such lands.
 65. Attorney-general, when to cause partition to be made of lands held by the state in joint tenancy, etc.
 66. Lands belonging to the school fund, and certain other lands, to be deemed unappropriated lands.

Lands when to be sold.
 38 N. Y., 315.

§ 18. The commissioners of the land-office may, from time to time, direct the surveyor-general to sell the unappropriated lands belonging to this state, and not otherwise directed to be disposed of, at public auction, in such parcels as they shall deem most for the interest of the state, and for the promotion of the settlement thereof; but not more than twenty thousand acres shall be sold at any one auction, and each lot shall be separately exposed to sale.

[1 R. L., 295, § 12.]

Proceedings.
 38 N. Y., 315.

§ 19. The commissioners shall, previous to every sale, furnish the surveyor-general with a statement of the price of each lot, below which it shall not be sold; and they shall also designate the newspapers in which the surveyor-general shall cause the notices of sale to be published; but they shall in all cases designate at least one newspaper published in the county where the lands to be sold are situated; or if there be no newspaper therein, then they shall designate at least one newspaper that shall be published nearest to such lands.

[1 R. L., 295, § 13; L. 1826, 327, § 5.]

Ib.
 38 N. Y., 315.

§ 20. The commissioners shall also, previous to every sale, prescribe the amount of purchase money to be paid at the time of sale to the surveyor-general. In fixing this amount, they shall have reference to the value and situation of the lands and timber thereon, and it shall in no case be less than twenty-five per cent. nor more than seventy-five per cent. of the purchase money.

[L. 1826, 354, § 4.]

Place of sale.
 38 N. Y., 315.

§ 21. All public sales of lands belonging to the people of this state, to be made by the surveyor-general, shall be held by him in the city of Albany, unless he shall be otherwise directed by the commissioners of the land-office.

[1 R. L., § 22.]

[303]
 Notice.

§ 22. He shall give eight weeks previous notice of the time, place, and conditions of such sale, to be published in such newspapers as the said commissioners shall have selected and prescribed.

[L. 1826, 354, § 15; 327, § 5.]

Condition.
 38 N. Y., 315.

§ 23. Within forty-eight hours after each sale, the purchaser of each tract shall pay to the surveyor-general the first payment required thereon, and execute a penal obligation conditioned for the payment of the residue of the purchase money to the people of the state of New

York, in six equal annual payments, with interest at the rate of six per cent. ART. 3.

[1 R. L., 296, §§ 16 and 18.]

§ 24. If any purchaser shall refuse or neglect to make such payment, and to deliver such obligation to the surveyor-general as aforesaid, he shall, for every such refusal or neglect, forfeit the sum of fifty dollars for each lot so by him purchased, to be recovered with costs of suit by the surveyor-general.

Penalty for a breach of them.
38 N. Y., 315.

[1 R. L., 293, §§ 16 and 18.]

§ 25. The surveyor-general, on the delivery to him of such obligation, and on the receipt of such payment, shall give such purchaser a certificate containing the name of the purchaser, a description of the land purchased, the sum paid, and the sum remaining due thereon; and shall deliver such obligation to the comptroller.

Certificate of sale.

[1 R. L., 296, §§ 16 and 18.]

§ 26. The certificate of sale given by the surveyor-general, for any lands that have been or may be sold by him, shall not be deemed to confer upon the purchaser, any right to cut down or destroy any kind of wood or timber standing or growing upon such land, unless such right shall be expressly granted by the certificate; but where a right of entering into the possession of any land so sold, shall be vested in the purchaser by the certificate, nothing herein contained shall prevent such purchaser from actually using and applying any wood or timber on the land, to the erection of fences or buildings thereon; nor from using the necessary firewood growing thereon, in his family; nor from actually and fairly improving any such land for the purposes of cultivation.

Rights acquired under it.
38 N. Y., 315.

[L. 1826, 210, § 4.]

§ 27. Whenever any purchaser at a sale made by the surveyor-general, or the representatives or assigns of such purchaser, shall produce to the commissioners, the surveyor-general's certificate, with a receipt of the treasurer indorsed thereon, for the whole of the purchase money due thereon, it shall be the duty of the comptroller to cancel the obligation executed by such purchaser on the sale, and letters patent for the lands described in the certificate shall be issued.

Patents when to issue.
38 N. Y., 315.

[1 R. L., 296, § 16.]

§ 28. Whenever any such certificate shall be lost or wrongfully withheld by any person from the owner thereof, the commissioners may receive evidence of such loss or wrongful detention; and, on satisfactory proof of the fact, may issue a patent to such person as shall appear to them to be the proprietor of the land described in the original certificate.

Upon certificate being lost, &c.

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[L. 1814, 21, §§ 2 and 3.]

§ 29. Whenever any person shall die, possessed of lands to which he had, under any law of this state, a pre-emptive right, the commissioners may hear and determine the claims of all persons who may claim to be entitled, in whole or in part, to such pre-emptive right; and on such determination, the person or persons to whom any such pre-emptive right, in whole or in part, shall be awarded, shall be entitled to all the rights and privileges, and be subject to all the

Upon death of purchaser.

TITLE 5. restrictions and liabilities, of other purchasers of unappropriated lands.

[L. 1814, 21, §§ 2 and 3.]

Rules to prevent fraud.

§ 30. The commissioners shall have power to establish such rules, as, in their opinion, may be proper, to prevent fraudulent applications on false suggestions, under the two preceding sections.

[L. 1814, 21, §§ 2 and 3.]

Lots when to be sold at private sale.

§ 31. Whenever the surveyor-general shall have exposed to sale, any lots of the unappropriated lands of this state, pursuant to law, and any of such lots shall remain unsold, the commissioners may direct the surveyor-general to issue certificates for the sale thereof, to such persons respectively, as shall thereafter, first make application for any of the said lots, at the minimum price affixed to them.

[1 R. L., 297, § 21.]

Conditions.

§ 32. No person shall be considered as an applicant, unless he shall have made the first payment, and executed the obligation required by law; and no one applicant shall be entitled to a grant of more than two lots, except so far as it respects lands in the counties of Saratoga, Washington, Warren, Schenectady, Montgomery, Essex, Clinton, and Franklin.

[L. 1815, 203, § 5.]

If not sold, price may be reduced.

§ 33. Whenever any lot of the unappropriated lands shall have been put up for sale, by the surveyor-general, and no bid shall be received for the same, and no application be made for the purchase thereof, within a reasonable time, the commissioners may, if in their opinion the minimum price was fixed too high, lessen the same, and direct the surveyor-general again to advertise, and proceed with the sale thereof.

[L. 1819, 300, § 2.]

Improvements to be paid for in certain cases, on appraisal.

§ 34. If any tract of land directed to be sold by the commissioners, was occupied on the seventeenth day of February, one thousand eight hundred and nine, and improved to the value of twenty-five dollars, or exceeding that value, the occupant of such improvement shall be entitled to recover from the purchaser, the value thereof, at the time of the sale, to be ascertained by appraisers, one of whom shall be nominated by such occupant, another by the purchaser, and a third, in case of their disagreement, by the other two.

[1 R. L., 296, § 17.]

[204] Surveyor general to appoint appraisers in certain cases.

§ 35. If either, such occupant, or purchaser, shall refuse or neglect, on the application of the other, to make such nomination, and such neglect or refusal shall be proved to the satisfaction of the surveyor-general, he shall appoint appraisers to ascertain the value of such improvement.

[1 R. L., 296, § 17.]

Duty of appraisers.

§ 36. It shall be the duty of the appraisers, in making their appraisal, to deduct from the appraised value of such improvements, a reasonable allowance for the use of the lands by the occupant, and also for the deterioration of the value thereof, by his cut-

ting and carrying away timber therefrom, during such occupancy, or causing it to be done. ART. 3

[L. 1817, 101, § 4.]

§ 37. The purchaser and occupant shall each, pay one-half of the expense of every such appraisement. Expense.

[1 R. L., 296, § 17.]

§ 38. The commissioners shall not issue letters patent for any such tracts of land, until satisfactory proof be produced, that the purchaser has, in the manner prescribed in this title, or otherwise, satisfied the occupant of such tract, for his improvements thereon. Proof of payment before letters issue.

[1 R. L., 296, § 17.]

§ 39. The preceding five sections shall not extend to any lands that shall have been previously disposed of by the state, or to which the state shall have acquired title by escheat or confiscation, or by purchase at any sale under a mortgage, judgment, or other security, or by conveyance from any person indebted to it. Qualification of the five preceding sections.

[L. 1828, ch. 321, § 5.]

§ 40. Whenever any person to whom a grant of land shall have been ordered, pursuant to any law of this state, shall die before the issuing of such grant, the heirs or devisees of every such person, shall be entitled to such grant, upon their complying with the conditions, upon which the grant was to have been made. Persons entitled to grant, dying, heirs, &c., to take.

[L. 1815, 201, § 2.]

§ 41. In case any monies shall remain due to the state, on account of the consideration of such lands, and the execution of the securities for the payment of such consideration, or any part of it, shall appear to be one of the conditions required of the grantee, the heirs and devisees, if of age, shall execute them. Duty of heirs, &c., if of age.

[L. 1815, 201, § 2.]

§ 42. If such heirs or devisees are not of full age, the treasurer and comptroller shall open an account with them for such consideration monies, in their respective offices; and the treasurer shall receive payments and give receipts on such accounts. Proceedings when not of age.

[L. 1815, 201, § 2.]

§ 43. When such account shall be paid in full, the grant shall issue to such heirs or devisees; and in case of default in the payment of the monies due on such account, according to the condition of the grant, the commissioners may direct the surveyor-general to sell the land at public auction. When land to be granted; when to be sold. 205]

[L. 1815, 201, § 2.]

§ 44. Whenever any person shall by virtue of any special law, become entitled to a grant of any of the unappropriated lands of the people of this state, he shall apply for the grant within twelve months after the passing of the law in his favor, unless it be otherwise provided by such law. Applications when to be made by persons entitled to grant.

[1 R. L., 299, § 28.]

§ 45. After the expiration of the time above limited, it shall not be lawful for the commissioners to issue such grants; but such Proceedings on omission.

TITLE 5. land shall be sold, in the manner directed for the sale of unappropriated lands.

[1 R. L., 299, § 28.]

Land when
to be re-
sold.

§ 46. If any one payment, stipulated in any obligation received by the surveyor-general, upon any sale of unappropriated lands, shall remain due one year after the same ought to have been made, the commissioners of the land-office may direct the comptroller to put such obligation in suit, or may direct the surveyor-general to sell again the land, for the payment of which, such obligation shall have been given; and in case of such sale, all previous payments made on account of such land, shall be forfeited to the people of this state.

[1 R. L., 209, § 18. See, for further directions upon the resale, L. 1836, ch. 457, §§ 3-7, *ante*, p. 619.]

§ 47. Whenever the state engineer and surveyor shall resell any lot of land bonded to the state, he shall include in the amount for which such lot is offered for sale, the sums due at the time of such sale for principal and interest on the purchase-moneys thereof, the amounts due on the books in the comptroller's office for taxes, and the interest and charges thereon, and the costs of such sale; and in case the total amount of such charges shall not be bid therefor, he shall purchase the same for the state, at the amount so due. [*Thus amended by L. 1875, ch. 572, § 1, sub. nom., "§ 60" of this title, that being the number given to it by the editors of the 6th edition.*]

How to be
resold.

§ 48. The surveyor-general may sell such lot or lots of land, so purchased by him for the state, to any person who may apply to purchase the same; always giving a preference to the last owner, provided he shall apply to purchase the same within three months after the sale, for the amount at which the same was purchased for the state, on the like terms and conditions, as he is authorised to sell the unappropriated lands of the state.

[L. 1815, 10, § 2.]

When to
be sold at
appraisal.

§ 49. If the commissioners of the land-office shall have directed a new appraisal of such lands, the surveyor-general may sell the same, in the manner authorised in the preceding section, for the prices at which the lots may be respectively appraised.

[L. 1815, 10, § 2.]

Certain
lands to be
sold by
surveyor-
general.

§ 50. All lands which have been, or shall be, purchased for, or on behalf of the state, by the attorney-general pursuant to law, except in cases already provided for by law, shall be sold by the surveyor-general, under the direction of the commissioners of the land-office, in such manner and on such terms and conditions as to them shall appear for the interest of the state.

[L. 1815, 10, § 1.]

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Ib.

§ 51. It shall also be his duty to sell, under the like directions of the commissioners of the land-office, and on the terms and conditions prescribed by them, all or any of the lands purchased by the commissioners of loans, for the benefit of the people of this state, according to the provisions of "An act authorizing a loan of monies to the citizens of this state," passed April 11, 1808, and all or

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any of the lands which have been or may be purchased in behalf of the people of this state, or which have or may become the property of the said people by virtue of the "Act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New York for safe keeping," passed April 4, 1837, or by virtue of any other act authorizing any loan of money for the benefit of the people of this state, or of any fund belonging to them. [*Thus amended by L. 1841, ch. 92, sub. nom., " § 65," that being the number given to it by the editors of the 2d edition of the Revised Statutes.*]

[L. 1822, 122, § 3.]

§ 52. Whenever the commissioners direct a resale, pursuant to the foregoing provisions, they shall cause notice to be given to every occupant of such land to remove therefrom; and in case of his refusal or neglect to comply with such notice, they shall direct the district attorney of the county in which such lands may be situated, to enter a complaint against such occupant, before one of the judges of the court of common pleas of the county.

Occupants of lands re-sold to be removed.

[L. 1826, 209, § 2.]

§ 53. The judge shall proceed to examine into the matter; and on proof, by the production of a certificate from the clerk of the commissioners of the land-office, that a resale of such land has been duly ordered for default of payment, he shall issue his warrant to the sheriff of the county, commanding him, within ten days after the receipt thereof, to remove such occupant from such lands; and it shall be the duty of the sheriff, within the time specified in the warrant, to remove such person, and for that purpose, he shall have the same powers as in the execution of criminal process.

Proceedings.

[L. 1826, 209, § 2; L. 1821, 183, §§ 1 and 2.]

§ 54. The sheriff shall retain such warrant in his hands, and if any person so removed shall return, to settle or reside upon such lands, without the consent of the surveyor-general, such person shall be forthwith removed by the sheriff, pursuant to the warrant; and shall also be deemed guilty of a misdemeanor, and be liable, on conviction, to be fined or imprisoned: the fine not to exceed one hundred dollars, and the imprisonment not to exceed thirty days.

Penalty for returning after removal.

[L. 1826, 209, § 2; L. 1821, 183, §§ 1 and 2.]

§ 55. Every judge who may issue a warrant under this title, for issuing such warrant and taking the preliminary proof, shall be entitled to receive a fee of one dollar in each case; and the sheriff, for executing every such warrant, shall be allowed such compensation as the comptroller shall certify to be reasonable; which fees shall be paid out of the treasury.

Fees.

[L. 1826, 209, § 2; L. 1821, 183, §§ 1 and 2.]

§ 56. Whenever the commissioners shall cause such lands to be sold, and such previous payments to be forfeited, they may deliver up and cancel the obligations, given for the lots so ordered to be sold, on the certificates of sale being surrendered.

Duty of commissioners.

[L. 1821, 178.]

§ 57. If, on any such sale, the surveyor-general shall become the purchaser, in behalf of the state, the commissioners of the land office

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TITLE 5. shall direct whether the land purchased shall be offered for sale by the surveyor-general, at the price for which the same was purchased by him, or whether a new appraisement shall be made thereof, under his direction.

[L. 1814, 10, § 2.]

Time for performing conditions of grant, how fixed. 3 Edm. Select Cases, 127.

§ 58. Whenever grants of land shall have been directed to be made by the commissioners of the land-office, upon the performance of any conditions by the grantees, and no time for the performance of such conditions has been prescribed by law, or by the terms of any agreement on the part of the state, the commissioners may fix a reasonable time for the performance of such conditions, not less than one year.

[L. 1827, 82, 83, § 1.]

Notice.

§ 59. They shall cause notice of the time so fixed, to be inserted in the state paper for at least six weeks, and shall transmit by mail a copy of such notice to the persons interested.

[L. 1827, 82, 83, § 1.]

Forfeiture.

§ 60. If such conditions shall not be performed, within the time limited in such notice, the person or persons entitled to any benefit under such grant, shall forfeit all right and title in the premises.

[L. 1827, 82, 83, § 1.]

Terms of sale of certain lands.

§ 61. The commissioners of the land-office, upon the application of any person for any unappropriated lands in the fourth senate district, not less than one hundred and sixty acres, may sell such lands, if already surveyed, at such price as they shall ascertain to be their cash value.

[L. 1827, 239.]

Proceedings.

§ 62. If application be made for any quantity of such lands, not less than one thousand acres, not already surveyed, the commissioners may cause surveys and estimates thereof to be made, and may sell the same at their real cash value, as ascertained by them.

[L. 1827, 239.]

Conditions.

§ 63. The purchasers of lands under the two last sections, shall be subject to the duties and liabilities, and entitled to the rights and privileges, of other purchasers of unappropriated lands.

[L. 1827, 239.]

How assessed.

§ 64. No lands so sold, for five years after the sale, shall be assessed by the assessors of the town in which they shall lie, at any higher valuation than the estimate upon which they were sold, unless improvements shall within that time have been made thereon; in which case, the value of such improvements shall be added to the estimate.

[L. 1827, 239.]

Partition in certain cases how made. 38 N. Y., 314.

§ 65. The attorney-general, whenever so directed by the commissioners of the land-office, shall cause partition to be made of such tracts of land as are held in joint-tenancy, or tenancy in common, in which the people of this state are interested; and for that purpose he may do all such acts as any joint tenant, or tenant in common, is authorised by law to do.

[1 R. L., 484, § 1.]

§ 66. The lands belonging to the common school fund, all escheated lands, and all other lands belonging to this state which are not directed by law to be kept for, or applied to, any specific purpose, shall be deemed unappropriated lands, within the meaning of this title.

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 (2061)
 What to be deemed unappropriated lands.
 18 Hun, 17.

[L. 1828, ch. 321, § 6.]

L. 1829, Chap. 261 — An act concerning trespasses on lands contracted to be sold by the state.

Certificate evidence of title. SECTION 1. Any person who has obtained or shall hereafter obtain the certificate of the surveyor-general of having purchased any land of the people of this state, may upon obtaining the consent of the commissioners of the land-office, and on such terms as they shall prescribe, bring and maintain actions for any injury done or to be done to such lands after the date of such certificate, in the same manner as he might have done had a patent been granted in lieu of such certificate.

Rights of assignee. § 2. Any person to whom any such certificate has been or shall be legally assigned, may have the like remedy for any injury done, or to be done after such assignment.

L. 1830, Chap. 322 — An act relating to the conditions in certain grants by the state.

Release by state. SECTION 1. The right reserved to the state of vacating the grants made by patent, founded upon the condition that actual settlements should be made upon the lands granted within the period mentioned in said patents, is hereby released to the patentees, their heirs and assigns.

L. 1876, Chap. 297 — An act to prohibit the disposal of any part of the public lands on Lake George or the islands thereof.

Prohibition as to grants in Lake George. SECTION 1. No grant or lease of any of the islands in Lake George or of any land on any of said islands shall be made by the commissioners of the land-office or by any board or officer of the state, until the further direction of the legislature, and any such grant or lease hereafter made without such express direction of the legislature shall be null and void

L. 1877, Chap. 359—An act to authorize the commissioners of the land-office to sell and convey lands in Clinton county.

Sale authorized, etc.; proviso. SECTION 1. The commissioners of the land-office are hereby authorized to sell and convey at private contract and sale, all the right, title and interest of the people of the state of New York, to any lands in the county of Clinton, on such terms as shall be for the best interest of the state. Provided however that any such sale or sales shall be confined to land from which the timber has been removed and to actual settlers and in tracts of not over two hundred acres in one parcel.

Purchase price not paid, to be secured by mortgage, etc. § 2. If any part of the price is unpaid at the time the grant is executed, the payment of it with interest at the rate of seven per cent per annum, shall be secured by a mortgage upon the

land sold, and upon default of payment thereof of principal or interest, then the said commissioners are hereby authorized to foreclose said mortgage by a sale of said land.

Sales cannot be made, etc. § 3. No sales under the provisions of this act shall be made except upon the recommendation of the comptroller of this state.

L. 1881, Chap. 605—An act to confer upon the commissioners of the land-office power to correct errors and omissions in certain cases.

Confirmatory grants may be issued. SECTION 1. In cases where the commissioners of the land-office may by resolution have decided to grant any application for a grant of lands under water, and at the time of the adoption of such resolution the necessary jurisdictional facts existed to authorize such grant, and in cases where sales have been lawfully made, or directed to be made, by said commissioners of the lands of the state, of any description, and by reason of accidental omission or manifest error the patent may not have been actually issued, or may have been issued to the applicant deficient or manifestly erroneous in description or otherwise, the said commissioners of the land-office may in their discretion, and on such terms as may seem to them proper, cause to be issued to said applicant, or to persons deriving claim or title by or through conveyances from him subsequent to the passage of such resolution, releases or confirmatory grants of such lands, or any parts thereof, which releases or confirmatory grants shall vest in the grantees therein named respectively, such right and estate, to the extent of the right or title of the state therein, in said lands, or parts thereof, as shall be therein named.

L. 1881, Chap. 625 — An act to confirm certain patents issued pursuant to resolutions of the commissioners of the land-office.

Patents ratified. SECTION 1. All patents of lands heretofore issued pursuant to resolutions of the commissioners of the land-office, and sold by them at private sale to purchasers in good faith, purporting to convey the right, title and interest of the people of this state in and to any lands in this state, are hereby ratified and confirmed, to as full an extent as though the same had been sold at public auction, according to law; provided the same does not refer to any lands under water in the bay or harbor of New York or adjacent thereto.

Saving clause. § 2. This act shall not be construed to affect any existing suit, or to impair, release or discharge any right, claim or interest of any person in and to said lands.

L. 1882, Chap. 192 — An act to withdraw and reserve that part of the public lands known as Esopus and Rogers islands from sale or lease under the land laws of the state, and to dedicate and set apart in order to preserve it as a distinguished feature of beauty in the natural scenery in its locality.

Esopus island reserved from sale, etc. SECTION 1. The tract of land known as Esopus island, situated in Dutchess county, opposite the town of Hyde Park in the Hudson river, about one mile north of the village of Hyde Park, is reserved and withdrawn from settlement, occupancy, lease or sale under the laws of the state, and dedicated and set apart in order to preserve it as a distinguished feature of beauty in the natural scenery in its locality for the benefit and enjoyment of the people; but all the powers now vested in the land commissioners by statute in regard to the protection of the public lands of the state from trespass are hereby

continued to said land commissioners in regard to said island. [Thus amended by L. 1884, ch. 42.]

L. 1883, Chap. 13—An act to prohibit sales of lands belonging to the state in the counties of Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, Saratoga, St. Lawrence and Warren.

Lands in counties named not to be sold. SECTION 1. Hereafter and from the passage of this act no sales shall be made of lands belonging to the state situated in the counties of Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, Saratoga, St. Lawrence and Warren.

Proviso as to vested rights. § 2. Nothing in this act shall be construed as prohibiting the commissioners of the land-office from conveying lands heretofore contracted to be sold, and not yet conveyed, to the purchasers thereof.

ARTICLE FOURTH.

ART. 4.

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OF GRANTS OF LAND UNDER WATER.

Sec. 67. When and to whom commissioners may grant lands under water.
68 and 69. The power given in preceding section to extend to certain waters.
70 and 71. Applicants to give notice, and how.

§ 67. The commissioners of the land-office shall have power to grant, in perpetuity or otherwise, so much of the lands under the waters of navigable rivers or lakes, as they shall deem necessary, to promote the commerce of this state, or proper for the purpose of beneficial enjoyment of the same by the adjacent owner; but no such grant shall be made to any person, other than the proprietor of the adjacent lands, and any such grant that shall be made to any other person shall be void. [Thus amended by L. 1850, ch. 283, § 1.]

When and to whom.
38 N. Y., 486; 36 Barb., 109; 19 Barb., 541; 29 Hun, 269; 16 Abb. N. C. 208, note; 41 N. Y., 258.

(L. 1850, ch. 283. § 2. The powers conferred on the commissioners of the land-office by the first section of this act, are hereby extended to lands under water, and between high and low water mark in and adjacent to and surrounding Long Island, and to all that part of the county of Westchester, lying on the East or Hudson river or Long Island Sound; but no grant made under this act shall extend beyond any permanent exterior water line, established by law, and nothing contained in this act shall authorize the commissioners of the land-office, to grant any lands under water belonging to the mayor, aldermen and commonalty of the city of New York, nor to interfere with any property, rights or franchises of said corporation of the city of New York, or interfere with the rights of the Hudson river railroad company.)

§ 68. The powers hereby vested in the said commissioners, shall extend to lands under the water of Hudson's river, adjacent to the state of New Jersey; and also to lands under the waters adjacent to and surrounding Great Barn Island, in the city and county of New York; and to the land between high and low water mark on said island; but no grant shall be so made, as to interfere with the rights of the corporation of the city of New York, or to affect the navigation of the waters surrounding the said island.

Certain waters.
48 N. Y., 540.

[1 R. L., 293, § 4; L. 1815, 201, § 1.]

§ 69. The powers of the commissioners shall also extend to the lands under water, adjacent to and surrounding Staten Island; but no such grant shall be so made as to interfere with any rights of the corporation of the city of New York, or to extend more than five hundred feet into the water, from low water mark.

[1 R. L., 293, § 4; L. 1815, 201, § 1.]

TITLE 5.
Notice by
applicant.

§ 70. Every applicant for a grant of land under water, shall, previous to his application, give notice thereof, by advertisement, to be published for six weeks successively, in a newspaper printed in the county in which the land so intended to be applied for, shall be situated; and shall cause a copy of such advertisement to be put up on the door of the court-house of such county, and if there be no court-house in the county, then at such place as the commissioners shall direct.

[1 R. L., 298, § 4; L. 1815, 201, § 1.]

1b. § 71. If there be no newspaper published in the county where such land shall lie, the advertisements shall be published in the newspaper that shall be printed nearest to such land.

L. 1835, Chap. 232 — An act to amend the Revised Statutes relative to grants of land under water.

Power to grant land under water extended. SECTION 1. The powers conferred on the commissioners of the land-office by article fourth of title fifth, chapter ninth of part first of Revised Statutes, are hereby extended to lands under water, and between high and low water mark, in and adjacent to and surrounding Long Island, and to all that part of the county of Westchester lying on the East river or Long Island sound; but no grant shall be made within the boundaries of the city of New York, or interfere with the rights of the corporation of said city.

For the purposes of commerce. § 2. This act or the act referred to in the preceding section, shall confer upon the said commissioners no other power than to authorize the erection of such dock or docks, as they shall deem necessary to promote the commerce of this state, and the collection of reasonable and accustomed dockage from the persons using such dock or docks, and the legislature may at any time regulate the same in such manner as they shall think proper.

Repeal. § 3. So much of article fourth of title fifth of chapter ninth of part first of the Revised Statutes as is inconsistent with this act is hereby repealed.

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ARTICLE FIFTH.

REGULATIONS CONCERNING THE PROTECTION OF THE PUBLIC LANDS, AND THE PAYMENT OF CHARGES THEREON.

SEC. 72. Sheriffs to report trespasses committed upon unpatented lands within their counties, when required.

73. Duty of district attorney.

74. Penalty for taking timber from lands of state, and from Indian lands.

75. Application of such penalties when collected.

76. When body of defendant is taken in execution for such penalty, not entitled to jail limits.

77. Assessments made upon lands of state, to be paid out of the treasury.

Trespasses
to be re-
ported by
sheriff.

§ 72. The commissioners of the land-office may require the sheriff of any county in which lands belonging to the people of this state, for which patents shall not have been issued, or any Indian lands, may be situated, to examine and report to them, and to the district attorney of his county, any trespasses that may be committed on such lands, by cutting or carrying away the timber thereon.

[L. 1826, 209, § 3.]

§ 73. Every district attorney, on receiving any such report, and also whenever directed by the commissioners of the land-office, shall commence suits against such trespassers, for the penalty imposed in the next section; or shall present indictments against such trespassers to the grand jury of his county, as he shall judge most discreet. In either case, he shall cause the witnesses to support such prosecutions to be duly subpoenaed, and shall conduct such prosecutions to a final determination.

ART. 5.
Duty of district attorney.

[L. 1826, 209, § 3.]

§ 74. Every person who shall trespass on any land belonging to the people of this state, or any Indian lands, by cutting or carrying away timber growing thereon, shall forfeit and pay the sum of twenty-five dollars for every tree that shall be cut or carried away by him, or under his direction.

Penalty for trespass on public and Indian lands. 13 Wend., 386.

[L. 1826, 209, § 3.]

§ 75. The district attorney shall apply such penalties, when collected, first to the payment of the costs and expenses incurred, including a reasonable compensation to the witnesses who shall attend in behalf of the people, to be certified by the court before which such recovery shall be had, and shall pay the residue thereof into the treasury of the county.

Proceeds, how applied.

[L. 1826, 209, § 3.]

§ 76. Whenever execution shall be issued upon judgments recovered in actions for such penalties, and the body of any defendant shall be arrested thereon, he shall be imprisoned according to law, without being entitled to the liberties of the jail.

Defendant, how imprisoned.

[L. 1826, 209, § 3.]

§ 77. All assessments legally made, upon lands belonging to the people of this state, and all legal rents or charges thereon, shall be audited by the comptroller, and paid out of the treasury. And this section shall extend to all such assessments on lands sold or leased under the authority of this state, made prior to the sale or letting of such lands, unless the purchaser or lessee shall have agreed to pay such assessments.

Assessments on public lands, how paid. 1 Rob., 461.

[210]

[L. 1822, 125, § 1.]

L. 1836, Chap. 234 — An act to provide for the payment of costs in certain cases.

Costs of certain suits to be paid. SECTION 1. Whenever suits have been brought, or shall hereafter be brought, by the direction of the commissioners of the land-office, pursuant to the fifth article of the fifth title of the ninth chapter of the first part of the Revised Statutes, and the plaintiffs in such suits have failed or shall fail to recover in such suits, or the defendant in such suits shall be unable to pay the costs adjudged against them, the comptroller shall have power to audit and settle the amount of the taxable costs in such suits, and to direct the payment thereof out of the treasury of this state to such district attorneys as may be entitled to the same.

L. 1886, Chap. 435 — An act relative to local assessments and taxes on state lands and to sales therefor.

Municipal authorities, etc., to notify comptroller as to assessments on state lands; state lands not to be sold therefor; payments, how made. SECTION 1. The persons or officials authorized to assess lands for any local improvements or purposes whatsoever, are hereby directed and required to serve on the comptroller of this state, at least three weeks prior to the confirmation of the same, a written notification of the assessment by them of any state lands, which notification shall show the purpose for which the assessment is made, the law authorizing the same and the state lands and the amounts for which they are assessed, and no such assessment shall be legal unless such notification be duly served. No fee, interest, penalty or expense shall be added to or accrue on any such assessment against state lands, nor shall such lands be sold therefor, but such assessments shall, if confirmed and uncontested, be paid and discharged by the state comptroller out of any moneys appropriated therefor.

Sales of state land for unpaid assessments declared void. § 2. All sales of state lands for unpaid taxes or assessments for any local improvements or purposes, and all sales of such lands by any municipal or village authority, whether the title thereto be derived from a tax sale or otherwise, for any unpaid tax levied thereon while such title vested in the state, are hereby vacated and declared void.

TITLE 5.

ARTICLE SIXTH.

OF THE DUTIES OF THE COMMISSIONERS OF THE LAND-OFFICE, IN REGARD TO LANDS BELONGING TO THE CANAL FUND.

SEC. 78. How commissioners to dispose of such lands.

79. Expenses of surveys thereof, how defrayed.

80. Conditions of such sales.

81. Commissioners to appoint agents to prosecute for trespasses on lands.

82. Agents to give security.

83. They may bring suits in name of people.

84. Compensation and expenses of agents to be paid out of treasury.

How and when to be sold.

§ 78. The commissioners of the land-office shall dispose of the lands conveyed to this state for the benefit of the canal fund, in such manner, at such times, and on such terms as they shall judge best for the interest of the canal fund; and for that purpose, they shall from time to time, cause such surveys and examinations to be made, as they shall deem necessary.

Expense of surveys.

§ 79. The expenses of such surveys and examinations, shall be defrayed in the same manner, as the expenses relating to the surveys and sales, of the unappropriated lands of this state.

Terms of sale.

§ 80. Whenever any part of such lands shall be sold, the commissioners shall require at least fifty per cent. of the purchase money to be paid in hand, or secured to their satisfaction on other property, payable in three annual instalments, with interest; and in either case, the residue of the purchase money shall be payable in three yearly payments, with interest at the rate of six per cent. per annum.

Agents.

§ 81. The commissioners of the land-office shall from time to time, appoint discreet agents, to prosecute all trespassers on any lands belonging to the canal fund.

§ 82. Every such agent shall give such reasonable security, from ART. 6.
time to time, to the people of this state, for the faithful execution To give
of his trust, as the commissioners shall require and approve. bond.

§ 83. He may bring suits in the name of the people, against all Powers.
persons who shall have trespassed on the said lands, and may prosecute the same to judgment and execution.

§ 84. The costs and expenses which such agent may incur in any Expenses.
such suit, together with such compensation for services as the commissioners shall deem just, shall be paid to him out of the treasury; but no allowance shall be made to him for any suit in which the defendant shall succeed on the trial, unless the commissioners shall be [§11]
satisfied that there was probable cause for bringing such suit.

[This article was compiled from the act of 28th March, 1826 (Laws of 1826, 74).]

[Supplementary Title.]

TITLE 5^A.

Of the Forest Commission; and its Powers and Duties; and Regulations for the Preservation of Forests.

L. 1885, Chap. 283 — An act to establish a forest commission, and to define its powers and duties, and for the preservation of forests.

Forest commission created; commissioners to be appointed by governor, etc. SECTION 1. There shall be a forest commission which shall consist of three persons who shall be styled forest commissioners, and who may be removed by the governor for cause. The forest commissioners shall be appointed by the governor by and with the advice and consent of the senate.

Terms of office. § 2. At the first meeting of the forest commissioners they shall divide themselves by lot, so that the term of one shall expire in two years, one in four years, and one in six years from the first day of February next ensuing. Except as to the three terms of office thus determined, the term of office of a forest commissioner shall be six years from the first day of February on which the preceding term expires.

Future appointments; vacancies. § 3. During the month of January, in the year eighteen hundred and eighty-eight, and in every second year thereafter, the governor by and with the advice and consent of the senate shall appoint one forest commissioner. Vacancies that may exist in the office of a forest commissioner after the commencement of a term of office shall be filled by the governor's appointment subject to the confirmation of the senate at its next session for the unexpired portion of the term in which the vacancy occurs.

To serve without compensation. § 4. The forest commissioners shall serve without compensation except that there shall be paid them their reasonable expenses incurred in the performance of their official duties.

Forest warden, inspectors, etc. § 5. The forest commission shall have power to employ a forest warden, forest inspectors, a clerk and all such agents, as they may deem necessary, and to fix their compensation, but the expenses and salaries of such warden, agents, clerk, inspectors and assistants shall not exceed in the aggregate with the other expenses of the commission the sum therefor appropriated by the legislature.

Office for commission. § 6. The trustees of public buildings, under chapter three hundred and forty-nine, laws of eighteen hundred and eighty-three, shall provide

rooms for office for the forest commission, with proper furniture and fixtures, and with warming and lights.

Lands to be known as Forest Preserve. § 7. All the lands now owned, or which may hereafter be acquired by the state of New York, within the counties of Clinton (excepting the towns of Altona and Dannemora), Delaware, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, Saratoga, St. Lawrence, Warren, Washington, Greene, Ulster and Sullivan, shall constitute and be known as the Forest Preserve, except all such lands, not wild lands, as have been, or may hereafter be, acquired by the state of New York upon or by foreclosure of or sale pursuant to any mortgage upon lands made to the commissioners for loaning certain moneys of the United States, usually called the United States deposit fund; and all such excepted lands acquired by the state of New York, may be sold and conveyed as provided by law. [*Thus amended by L. 1888, ch. 520.*]

To be kept as wild forest lands; certain small detached tracts may be sold or exchanged; mode of sale or exchange, and investment of proceeds; comptroller to report same.

§ 8. The lands now or hereafter constituting the Forest Preserve shall be forever kept as wild forest lands, and shall not be sold nor shall they be leased or taken by any person or corporation, public or private, except that whenever any of the lands now constituting the Forest Preserve, or which may hereafter become a part thereof, owned by the state within any county specified in section seven of the act hereby amended, shall consist of separate small parcels or tracts wholly detached from the main portions of the Forest Preserve and bounded on every side by lands not owned by the state, then it shall be lawful, and the comptroller shall have power to sell and convey such separate tracts or parcels, or the timber thereon, to such person or persons, corporation or association as shall have offered the highest price therefor; but no such tracts or parcels of land, or the timber thereon, shall be sold by the comptroller except upon the recommendation of the forest commission or a majority thereof, together with the advice of the attorney-general in behalf of the state. Such separate tracts or parcels of land may be exchanged by the comptroller for lands that lie adjoining the main tracts of the Forest Preserve upon the recommendation of the forest commission or a majority thereof, together with the advice of the attorney-general on behalf of the state; but the values of said lands so exchanged must be first appraised by three disinterested appraisers sworn to faithfully and fairly appraise the value of said lands, and the difference, if any, between the values of such parcels so proposed to be exchanged shall be paid by the party so exchanging with the state into the state treasury, but the state shall not pay the amount of any such difference. Two of said appraisers shall be nominated and appointed by the county judge of the county in which said lands proposed to be exchanged are situate or in case such lands are situate in two counties, then the county judge of each county shall nominate and appoint each one appraiser. The two appraisers so appointed shall select a third appraiser, and they shall report to the comptroller the result of said appraisal before such lands shall be exchanged as aforesaid. The said appraisers so appointed shall receive the same compensation for their services as is provided for appraisers of decedents' estates, to be paid by the party so proposing to exchange lands with the state. It shall be the duty of the comptroller annually to report to the legislature all sales or exchanges of lands made under the provisions of this act, together with all bids and the amounts received therefor, and in said report shall be included the reports of appraisers of lands exchanged in accordance with the foregoing provisions. The proceeds of all land so sold, or the receipts from all exchanges so made, shall be invested by the comptroller, with the approval of the forest commission, in the purchase of forest land adjoining great blocks of the Forest Preserve now owned by the state. [*Thus amended by L. 1887, ch. 475.*]

Powers and duties of commission. § 9. The forest commission shall have the care, custody, control and superintendence of the Forest Preserve. It shall be the duty of the commission to maintain and protect the forests now on the Forest Preserve, and to promote as far as practicable the further growth of forests thereon. It

shall also have charge of the public interests of the state, with regard to forests and tree planting, and especially with reference to forest fires in every part of the state. It shall have as to all lands now or hereafter included in the Forest Preserve, but subject to the provisions of this act, all the powers now vested in the commissioners of the land-office and in the comptroller as to such of the said lands as are now owned by the state. The forest commission may, from time to time, prescribe rules or regulations and may, from time to time, alter or amend the same, affecting the whole or any part of the Forest Preserve, and for its use, care and administration; but neither such rules or regulations, nor anything herein contained shall prevent or operate to prevent the free use of any road, stream or water as the same may have been heretofore used or as may be reasonably required in the prosecution of any lawful business.

Officers may arrest offenders without warrant. § 10. The forest warden, forest inspectors, foresters and other persons acting upon the Forest Preserve under the written employment of the forest warden or of the forest commission may, without warrant, arrest any person found upon the Forest Preserve violating any of the provisions of this act; but in case of such arrest, the person making the arrest shall forthwith take the person arrested before the nearest magistrate having jurisdiction to issue warrants in such case, and there make, or procure to be made, a complaint in writing, upon which complaint the magistrate shall act as the case may require.

Commission may bring actions for injuries, etc. § 11. The forest commission may bring in the name, or on behalf of the people of the state of New York, any action to prevent injury to the Forest Preserve or trespass thereon, to recover damages for such injury or trespass, to recover lands properly forming part of the Forest Preserve, but occupied or held by persons not entitled thereto, and in all other respects for the protection and maintenance of the Forest Preserve, which any owner of lands would be entitled to bring. The forest commission may also maintain, in the name or on behalf of the people of the state, an action for the trespass specified in section seventy-four, article fifth, title five, chapter nine, part one of the Revised Statutes, when such trespass is committed upon any lands within the Forest Preserve. In such action there shall be recoverable the same penalty, and a like execution shall issue, and the defendant be imprisoned thereunder without being entitled to the liberties of the jail, all as provided in sections seventy-four and seventy-six of the said article; and in such action the plaintiff shall be entitled to an order of arrest before judgment as in the cases mentioned in section five hundred and forty-nine of the Code of Civil Procedure. The trespass herein mentioned shall be deemed to include, in addition to the acts specified in the said section seventy-four, any act of cutting or causing to be cut, or assisting to cut, any tree or timber standing within the Forest Preserve, or any bark thereon, with intent to remove such tree or timber, or any portion thereof, or bark therefrom, from the said Forest Preserve. With the consent of the attorney-general and the comptroller, the forest commission may employ attorneys and counsel to prosecute any such action, or to defend any action brought against the commission or any of its members or subordinates arising out of their or his official conduct with relation to the Forest Preserve. Any attorney or counsel so employed shall act under the direction of and in the name of the attorney-general. Where such attorney or counsel is not so employed, the attorney-general shall prosecute and defend such actions.

Injunction to restrain trespass, waste, etc. § 12. In an action brought by or at the instance of the forest commission, an injunction, either preliminary or final, shall upon application be granted restraining any act of trespass, waste or destruction upon the Forest Preserve.

Partition of lands held in common by people with individuals. § 13. Whenever the state owns or shall own an undivided interest with any person in any lands within the counties mentioned in section eight of this act, or is or shall be in possession

of any such lands as joint tenant or tenants in common with any person who has an estate of freehold therein, the attorney-general shall, upon the request of the forest commission, bring an action in the name of the people of the state of New York for the actual partition of the said lands according to the respective rights of the parties interested therein; and upon the consent in writing of the forest commission any such person may maintain an action for the actual partition of such lands, according to the respective rights of the parties interested therein, in the same manner as if the state were not entitled to exemption from legal proceedings, service of process in such action upon the attorney-general to be deemed service upon the state. Such actions, the proceedings and the judgment therein, and the proceedings under the judgment therein shall be according to the practice at the time prevailing in actions of partition and shall have the same force and effect as in other actions, except that no costs shall be allowed to the plaintiff in such action, and except that no sale of such lands shall be adjudged therein. The forest commission may, without suit, but upon the consent of the comptroller, agree with any person or persons owning lands within the said towns jointly or as tenants in common with the state for the partition of such lands, and upon such agreement and consent, the comptroller shall make on behalf of the people of the state any conveyance necessary or proper in such partition, such conveyance to be forthwith recorded as now provided by law as to conveyances made by the commissioners of the land office.

Income. § 14. All income that may hereafter be derived from state forest lands shall be paid over by the forest commission to the treasury of the state.

Accounts. § 15. A strict account shall be kept of all receipts and expenses, which account shall be audited by the comptroller, and a general summary thereof shall be reported annually to the legislature.

Report. § 16. The forest commission shall, in January of every year, make a written report to the legislature of their proceedings, together with such recommendations of further legislative or official action as they may deem proper.

Supervisor to be town protector of lands; to report injuries to district attorney, who shall prosecute offenders; forest guards. § 17. The supervisor of every town in the state in which wild or forest lands belonging to the state are located, except within the counties mentioned in section seven of this act, shall be by virtue of his office the protector of these lands, subject to the instructions he may receive from the forest commission. It shall be his duty to report to the district attorney for prosecution any acts of spoliation or injury that may be done, and it shall be the duty of such district attorney to institute proceedings for the prevention of further trespass, and for the recovery of all damages that may have been committed, with costs of prosecution. The supervisors shall also report their proceedings therein to the forest commission. In towns where the forest commission shall deem it necessary, they may serve a notice upon the supervisor, requiring him to appoint one or more forest guards, and if more than one in a town, the district of each shall be properly defined. The guard so appointed shall have such powers, and perform such duties and receive such pay as the forest commission may determine.

Measures to promote forestry in schools, etc. § 18. The forest commission shall take such measures as the department of public instruction, the regents of the university and the forest commission may approve, for awakening an interest in behalf of forestry in the public schools, academies and colleges of the state, and of imparting some degree of elementary instruction upon this subject therein.

Tracts, circulars, etc. § 19. The forest commission shall, as soon as practicable, prepare tracts or circulars of information giving plain and concise advice for the care of woodlands upon private lands, and for the starting of new plantations upon lands that have been denuded, exhausted by cultivation, eroded by torrents, or injured by fire, or that are sandy, marshy, broken, sterile or waste, and unfit for other use. These publications shall be furnished without cost to any citizen of the

state, upon application, and proper measures may be taken for bringing them to the notice of persons who would be benefited by this advice.

Supervisors ex-officio fire wardens; in certain towns one or more fire wardens appointed; map; fire wardens in counties named in § 7, duties of, etc. § 20. Every supervisor of a town in this state, excepting within the counties mentioned in section seven of this act, shall be ex-officio fire warden therein. But in towns particularly exposed to damages from forest fires, the supervisor may divide the same into two or more districts, bounded as far as may be by roads, streams of water, or dividing ridges of land or lot lines, and he may, in writing, appoint one resident citizen in each district as district fire warden therein. A description of these districts and the names of the district fire wardens thus appointed shall be recorded in the office of town clerk. The supervisor may also cause a map of the fire district of his town to be posted in some public place with the names of the district fire wardens appointed. The cost of such map, not exceeding five dollars, may be made a town charge; and the services of the fire wardens shall also be deemed a town charge and shall not exceed the sum of two dollars per day for the time actually employed. Within the counties mentioned in section seven of this act, such persons shall be fire wardens as may from time to time be appointed by the forest commission. The persons so appointed shall act during the pleasure of the forest commission; and there shall be applicable to them all the provisions of this act, with reference to supervisors and district town wardens. Upon the discovery of a forest fire, it shall be the duty of the fire warden of the district, town or county to take such measures as may be necessary for its extinction. For this purpose he shall have authority to call upon any person in the territory in which he acts for assistance, and any person shall be liable to a fine of not less than five nor more than twenty dollars for refusing to act when so called upon.

Powers and duties of officers named in case of fires in woods. § 21. The forest commission, the forest warden, the forest inspector, the foresters, and any other persons employed by or under the authority of the forest commission, and who may be authorized by the commission to assume such duty, shall within the counties mentioned in section seven of this act, whenever the woods in any such town shall be on fire, perform the duty imposed upon, and in such case shall have the powers granted to the justices of peace, the supervisors and the commissioner of highways of such town by title fourteen of chapter twenty of part one of the Revised Statutes, with reference to the ordering of persons to assist in extinguishing fires or stopping their progress; and any person so ordered by the forest commission, the forest warden, the forest inspectors, the foresters, or any of them, or any other person acting or authorized as aforesaid who shall refuse or neglect to comply with any such order shall be liable to the punishment prescribed by the said title.

No action for entry to extinguish fire. § 22. No action for trespass shall be brought by any owner of land for entry made upon his premises by persons going to assist in extinguishing a forest fire, although it may not be upon his land.

Fences may be destroyed, etc. § 23. The fire wardens, or the supervisor, where acting in general charge, may cause fences to be destroyed or furrows to be plowed to check the running of fires, and in cases of great danger, back-fires may be set along a road or stream or other line of defense, to clear off the combustible material before an advancing fire.

Supervisor to report fires, etc. § 24. The supervisor of every town of which he is a fire warden as aforesaid and in which a forest fire of more than one acre in extent has occurred within a year shall report to the forest commission the extent of area burned over, to the best of his information, together with the probable amount of property destroyed, specifying the value of timber, as near as may be, and amount of cord wood, logs, bark or other forest product, and of fencing, bridges, and buildings that have been burned. He shall also make inquiries and report as to the causes of these fires, if they can be ascertained, and as to the measures employed and found most effectual in checking their progress. A con-

solidated summary of these returns by counties and of the information as to the same matter otherwise gathered by the forest commission shall be included in the annual report of the forest commission.

Railroad companies to cut and burn grass, etc. § 25. Every railroad company whose road passes through waste or forest lands, or lands liable to be overrun by fires within this state, shall twice in each year cut and burn off or remove from its right of way all grass, brush or other inflammable material, but under proper care, and at times when the fires thus set are not liable to spread beyond control.

Locomotives to be provided with arrangements to prevent escape of fire. § 26. All locomotives which shall be run through forest lands shall be provided, within one year from the date of this act, with approved and sufficient arrangements for preventing the escape of fire from their furnace or ash-pan, and netting of steel or iron wire upon their smoke-stack to check the escape of sparks of fire. It shall be the duty of every engineer and fireman employed upon a locomotive to see that the appliances for the prevention of the escape of fire are in use and applied, as far as it can be reasonably and possibly done.

Fire-coals and ashes not to be deposited in vicinity of woodlands. § 27. No railroad company shall permit its employees to deposit fire-coals or ashes upon their track in the immediate vicinity of woodlands or lands liable to be overrun by fires, and in all cases where any engineers, conductors or trainmen discover that fences along the right of way, on woodlands adjacent to the railroad, are burning, or in danger from fire, it shall be their duty to report the same at their next stopping place, and the person in charge of such station shall take prompt measures for extinguishing such fires.

Trackmen in case of drought, etc. § 28. In seasons of drought, and especially during the first dry time in the spring after the snows have gone and before vegetation has revived, railroad companies shall employ a sufficient additional number of trackmen for the prompt extinguishment of fires. And where a forest fire is raging near the line of their road they shall concentrate such help and adopt such measures as shall most effectually arrest its progress.

Penalty. § 29. Any railroad company violating the provisions or requirement of this act shall be liable to a fine of one hundred dollars for each offense.

Rules for prevention of forest fires to be printed and posted. § 30. The forest commission shall, with as little delay as practicable, cause rules for the prevention and suppression of forest fires to be printed for posting in school-houses, inns, saw-mills and other wood-working establishments, lumber camps and other places, in such portions of the state as they may deem necessary. Any person maliciously or wantonly defacing or destroying such notices shall be liable to a fine of five dollars. It shall be the duty of forest agents, supervisors and school trustees to cause these rules, when received by them, to be properly posted, and replaced when lost or destroyed.

Wilful setting fires, how punished. § 31. Any person who shall wilfully or negligently set fire to, or assist another to set fire to any waste or forest lands belonging to the state or to another person, whereby the said forests are injured or endangered, or who suffers any fire upon his own land to escape or extend beyond the limits thereof, to the injury of the woodlands of another or of the state, shall be liable to a fine of not less than fifty dollars nor more than five hundred dollars, or to imprisonment of not less than thirty days nor more than six months. He shall also be liable in an action for all damages that may be caused by such fires; such action to be brought in any court of this state having jurisdiction thereof.

\$15,000 appropriated. § 32. Fifteen thousand dollars is hereby appropriated out of any moneys in the treasury not otherwise appropriated, for the purposes

of this act. And no liabilities shall be incurred by said forest commissioners in excess of this appropriation.

L. 1886, Chap. 280 — An act to provide for the taxation of forest lands in the counties known as the Forest Preserve.

Assessment of taxes on state lands in Forest Preserve; how made; how paid; no fees for collecting. SECTION 1. All wild or forest lands belonging to, or which may hereafter be acquired by the state within the limits of the Forest Preserve as established by chapter two hundred and eighty-three of the laws of eighteen hundred and eighty-five, shall be assessed and taxed at a like valuation and at a like rate as those at which similar lands of individuals within such counties are assessed and taxed, subject, however, to the provisions of this act. On or before August first in every year the assessors of the town within which the lands so belonging to the state are situated shall file in the office of the comptroller, and in the office of the forest commission, a copy of the assessment-roll of the town which, in addition to the other matters now required by law to be stated therein, shall state and specify which and how much, if any, of the lands assessed are forest lands, and also, and separately, which and how much, if any, of the lands assessed are lands belonging to the state; such statements and specifications to be verified by the oaths of a majority of the said assessors. The comptroller shall thereupon and before the first day of September following, and after hearing the assessors and the forest commission if they or any of them so desire, correct or reduce any assessment of state lands which may in his judgment be in unfair proportion to the remaining assessments of lands within the town, and shall in other respects approve the assessment and communicate such approval, and no such assessment of state lands shall be valid for any purpose until the amount of the assessment is so approved by the comptroller, and such approval, attached and deposited with the assessment-roll of the town and therewith delivered by the assessors of the town to the supervisor of the town, or other officer authorized to receive the same from the assessors. No tax for the erection of a school-house or opening a road shall be imposed upon state lands, unless such erection or opening shall have been first approved in writing by the forest commission. Payments of the taxes which may be imposed according to law and the provisions of this act upon lands so belonging to the state shall in every year be made by the treasurer of the state upon the certificate of the comptroller as to the lawful and just amount of such taxes, by allowing to the treasurer of the county in which any such lands may be situate a credit of the amount of such taxes due upon such lands upon the amount payable by such county treasurer in such year to the state for state taxes; providing however, that no fees shall be allowed by the comptroller to the county treasurers in adjusting their accounts for such portion of the state tax as is so paid.

L. 1887, Chap. 562 — An act to establish parks for the propagation of deer and other game upon lands belonging to the state situated in the Catskill regions.

Lands set apart for deer and wild game. SECTION 1. The forest commission is hereby authorized and directed to set apart tracts of land not exceeding three in number of such size as they may deem proper belonging to the state in the Catskill region, now constituting a part of the Forest Preserve, for the purpose of breeding of deer and wild game.

Rules for protection. § 2. Said forest commission may establish all proper rules for the protection of said land and game therein.

How stocked. § 3. Said commissioners are authorized to purchase and turn out upon such land such deer or other game as they may think proper.

Killing, etc., forbidden. § 4. No game shall be killed or pursued, trapped or in any way destroyed within the limits of said lands so set apart for a period of five years.

Appropriation; private subscription. § 5. The sum of five thousand dollars is hereby appropriated to be paid by the comptroller, at such time and such amount as the commissioners may desire for the purposes of this act, and the commission is authorized to receive private subscriptions and expend the same for such purposes.

[Supplementary Title.]

TITLE 5^B.

Of the State Reservation at Niagara; and the Commissioners thereof.

L. 1883, Chap. 336 — An act to authorize the selection, location and appropriation of certain lands in the village of Niagara Falls for a state reservation and to preserve the scenery of the falls of Niagara.

Commission created; commissioners, appointment of; term of office; no compensation. SECTION 1. Within ten days after the passage of this act, there shall be appointed by the governor, by and with the consent of the senate, five commissioners, all of whom shall be residents of the state of New York, who are hereby appointed and constituted a board of commissioners by the name and style of "The Commissioners of the State Reservation at Niagara." Said commissioners shall hold office for the term of five years from and after the passage of this act, and until others are appointed in their places. No member of said board shall receive any compensation for his services as commissioner, but each commissioner shall be entitled to receive his actual disbursements for his expenses in performing the duties of his office. In case any of the persons so appointed as above will not undertake the office of this commission, or in case of a vacancy on said board, such vacancy shall be filled by the governor, and the person so appointed shall hold his office for the term of five years from the date of his appointment and until another shall be appointed in his place.

39 Hun, 537.

Powers. § 2. The said board shall have power to select and locate such lands in the village of Niagara Falls and the county of Niagara and the state of New York as may in their opinion be proper and necessary, to be reserved for the purpose of preserving the scenery of the falls of Niagara, and of restoring the said scenery to its natural condition. Before any proceedings shall be had or taken for acquiring the title to any of the said lands, the said commissioners shall cause to be made a map of the land, by the state engineer and surveyor, which they shall determine to take, which shall be certified by a majority of said commissioners and filed in the office of the secretary of state and in the office of the clerk of the county of Niagara.

First meeting; officers; notice of intention to take lands to be published. § 3. The said commissioners shall hold their first meeting at twelve o'clock, noon, at the office

of the secretary of state, on such day as shall be named by said secretary of state, and within thirty days after the passage of this act. The said commissioners shall at said meeting choose a president of said board who shall be a member thereof, and shall appoint some person to act as the treasurer and secretary of said board. After the filing of the said map as above required, the said commissioners shall publish for twenty successive week-days in the state paper, and in a newspaper printed and published in the county of Niagara, a notice declaring that the state of New York intends to take and appropriate the lands described by the said maps, and acquire title thereto, and that the said commissioners intend to apply to the supreme court, at a special term thereof, to be held in the eighth judicial district, for the appointment of three freeholders, residents of the state of New York, to act as commissioners of appraisalment, to ascertain and report the just compensation to be paid to the person or persons or corporation owning or having any interest in said property.

Court to hear application and appoint commissioners of appraisalment. § 4. Upon the day designated in the said notice, or on some other day to be named by the said court, the said court shall hear the application of the said commissioners, and shall appoint three commissioners of appraisalment for the purpose aforesaid. And in case any commissioner of appraisalment shall decline to serve, the said court may, on application of said board of commissioners of the State Reservation at Niagara, upon notice of such vacancy and application to be published in a newspaper in the county of Niagara for ten successive week-days, appoint another in his place. [*Thus amended by L. 1884, ch. 109.*]

Their official oath; notice of meeting to view property. § 5. The commissioners of appraisalment so appointed shall, before they enter upon their duties, take and subscribe an oath, to be administered by some person authorized to administer oaths, faithfully to execute their duties according to the best of their ability. They shall give notice of the time and place of the meeting to view the said property, by publishing the same in a newspaper printed and published in the county of Niagara, for twelve successive week-days.

Appraisalment commissioners to view property, make award, and report. § 6. The commissioners shall together view such property and shall receive any legal evidence as to the compensation that should be made therefor, and may adjourn from time to time, and one commissioner in the absence of the others shall have power to adjourn. They shall ascertain and award to the respective owners of the property to be taken, and to all persons and corporations interested therein, such compensation therefor as in their opinion shall be just and proper, and in fixing the amount of such compensation said commissioners shall not make any allowance or deduction on account of any real or supposed benefits which the parties interested may derive from the said state reservation or improvement for which said lands are to be taken. The report of the said commissioners of appraisalment, signed by a majority of said commissioners, shall be filed in the office of the clerk of Niagara county as soon as completed, and said report shall be made and filed within one year from the time of their appointment. Their minutes of testimony taken by them, if any, shall be attached to and filed with their said report and form a part thereof. Such minutes of testimony may, in the discretion of the said commissioners of appraisalment, be taken by a stenographer to be appointed by them, and it shall not be necessary that the witnesses giving such testimony sign the same. [*Thus amended by L. 1884, ch. 109.*]

Reservation commissioners to publish notice of application to confirm report. § 7. After the report of the said commissioners of appraisalment shall be so filed, the board of commissioners of the State Reservation at Niagara shall give notice, by publishing the same in ten successive numbers of some newspaper printed and published in the said county of Niagara, that they will on a day to be specified in said notice apply to the said supreme court for an order confirming the said report, and on the

day so appointed the said court, upon being furnished with proof of the due publication of said notice as above provided, shall confirm such report, and make an order containing a recital of the substance of the proceedings in the matter of the appraisement, and a description of the real estate appraised, for which compensation is to be made, and shall also direct to whom the money is to be paid.

Copy order to be recorded. § 8. A certified copy of the order so to be made as aforesaid shall be recorded at full length in the office of the clerk of the county of Niagara, and also in the office of the secretary of state.

Appeal and proceedings thereon. § 9. Within twenty days after the confirmation of the report of the commissioners, as provided for in the seventh section of this act, any party may appeal by notice in writing to the other to the supreme court from the appraisal and report of the commissioners. Such appeal shall be heard by the supreme court at any general term of the fourth department on such notice thereof being given according to the rules and practice of said court. On the hearing of such appeal the court may direct a new appraisal before the same or new commissioners in its discretion. The second report shall be final and conclusive on all the parties interested. Provided, however, that the state shall not take possession of the said appraised premises until the amount awarded for the same shall have been duly appropriated by act of the legislature of this state for this purpose.

37 Hun, 537.

Money to be paid into court in case of conflicting claimants, etc. § 10. If there should be diverse and conflicting claimants to the money or to any part of it, to be paid as compensation for the real estate taken for the purpose aforesaid, the court may direct the moneys to be paid into court, and may determine who is entitled to the same and direct to whom the same shall be paid, and may in its discretion order a reference to ascertain the facts upon which said determination and order are to be made.

Power to amend proceedings. § 11. The said court shall have power at any time to amend any defect or informality in any of the proceedings to acquire title to the said land, as may be necessary, and also to appoint other commissioners of appraisement in place of any who should die, or refuse or neglect to serve or be incapable of serving upon like notice as required by section four of this act, in like cases of neglect or refusal to serve.

To acquire perfect title. § 12. If at any time after an attempt to acquire title by compensation as aforesaid it should be found that the title attempted to be acquired is defective, the said board of commissioners of the State Reservation at Niagara shall proceed anew to acquire or perfect such title in the manner hereinbefore set forth, and as if no appraisement had been made.

To report to the legislature. § 13. After the proceedings herein provided for, for the purpose of acquiring title by the state to the said lands, shall have been concluded, the said board of commissioners of the State Reservation at Niagara shall report such proceedings, and all other action by them taken, together with the amounts awarded by the said commissioners of appraisement, to the legislature of this state.

In case of failure to make appropriation to pay awards proceedings to be void. § 14. It is further provided that in case the legislature shall fail to make an appropriation to pay the owners for the lands which may be selected and located by the said commissioners of the State Reservation at Niagara pursuant to the provisions hereof within two years after the passage of this act, all the proceedings which may have been taken for acquiring the title to the said lands shall be void and of no effect, but in such case the comptroller shall pay to the parties whose lands have been condemned in pursuance of the provisions of this act the reasonable costs and ex-

penses incurred by them in such proceedings, the amount of such costs and expenses to be fixed and allowed by the attorney-general and to be paid out of any moneys in the treasury not otherwise appropriated.

37 Hun, 537.

[Section 15 appropriates \$10,000.]

L. 1884, Chap. 109 — An act to amend chapter three hundred and thirty-six of the laws of eighteen hundred and eighty-three, entitled "An act to authorize the selection, location and appropriation of certain lands in the village of Niagara Falls for a state reservation and to preserve the scenery of the falls of Niagara."

[Sections 1 and 2 amend L. 1883, ch. 336.]

Commissioners to report to the legislature. § 3. The said board of commissioners of the State Reservation at Niagara shall, from time to time, report to the legislature upon the progress and condition of their work, with a statement of their expenses, and such recommendations as they shall see fit to make.

L. 1885, Chap. 182 — An act to provide for the payment of the awards made for the lands selected and located by the commissioners of the State Reservation at Niagara.

[Sections 1 and 2 provide for payment of the awards, appropriate \$1,433,429.50 for that purpose, and provide for raising \$1,000,000 of the money by bonds.]

State reservation established; its object; to be forever free. § 3. The lands for the payment of awards for which this act provides shall be known as "The State Reservation at Niagara;" they shall forever be reserved by the state for the purpose of restoring the scenery of the falls of Niagara to, and preserving it in its natural condition; they shall forever be kept open and free of access to all mankind without fee, charge or expense to any person for entering upon or passing to or over any part thereof.

L. 1885, Chap. 286 — An act to provide for the maintenance and management of the State Reservation at Niagara.

Control and management of state reservation; powers of commissioners; receipt and disposition of moneys; superintendent. SECTION 1. The State Reservation at Niagara shall be under the control and management of the commissioners of the State Reservation at Niagara and their successors in office. A majority of said commissioners shall constitute a quorum for the transaction of business. Said commissioners shall have power to lay out, manage and maintain said reservation and make and enforce ordinances, by-laws, rules and regulations necessary to effect the purpose thereof and for the orderly transaction of business not inconsistent with the laws of this state; to fix the prices to be charged by drivers of public conveyances for carrying persons, for hire within the limits of said reservation; to appoint a superintendent and to employ such other persons as may be needed, one or more of whom, to be designated by the commissioners, shall have the powers and may perform the duties of a police constable in criminal cases. Said commissioners shall also have the power to fix the compensation of the persons

who may be appointed or employed by them. But no debt or obligation shall be created by said commissioners exceeding the amount of moneys at the time at their disposal. No one or more of said commissioners, nor any other person shall have power to create any debt, obligation, claim or liability for or on account of said commissioners except by the express authority of said commissioners conferred at a meeting thereof. On the first day of October, eighteen hundred and eighty-seven, the said commissioners shall pay into the treasury of the state all moneys which may be in their hands as such commissioners, and shall on the first day of each and every month thereafter pay into the treasury of the state all receipts and earnings of whatever nature, other than receipts from the state treasurer. [*Thus amended by L. 1887, ch. 656.*]

16 Abb. N. C., 159, 395; 37 Hun, 537.

Removal, etc., of structures; proceeds of sales. § 2. The said board shall sell and cause to be removed from said reservation all structures, machinery and materials thereon belonging to the state, not required to afford free and convenient access to said reservation, nor for restoring the scenery of the falls of Niagara, to and preserving it in its natural condition, and up to the first day of October, eighteen hundred and eighty-seven, may apply the proceeds of such sales to the payment of the expenses of such restoration and the maintenance of said reservation. [*Thus amended by L. 1887, ch. 656.*]

By-laws, publication and penalty for violation of. § 3. The by-laws, ordinances, rules and regulations adopted by said commissioners shall, within ten days after adoption, be published at least twice in some paper published in the village of Niagara Falls. Any person offending against any of said ordinances, by-laws, rules and regulations shall be deemed guilty of a misdemeanor and, on conviction, may be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment.

Property may be devised, etc., to state to increase reservation. § 4. Real and personal property may be granted, conveyed, bequeathed or devised to and taken by the state of New York, in aid of the purposes of said reservation or to increase the same and upon such trusts or conditions as may be prescribed by the grantors or devisors thereof, provided the same be accepted or agreed to in writing by the said commissioners. All such property shall be managed and controlled by the said commissioners, and the rents, issues and profits thereof shall be turned into the state treasury as provided for above, except where said rents, issues and profits were specifically devised or bequeathed to be used for a specific and definite purpose. [*Thus amended by L. 1887, ch. 656.*]

40 Hun, 226.

Commissioners' annual report; quarterly account. § 5. In the month of January of every year the said commissioners shall make to the legislature a report of their proceedings and a statement in detail of all their receipts and expenditures for the next preceding fiscal year. They shall also submit therewith an estimate of the work necessary to be done and of the expenses of maintaining the said reservation for the ensuing fiscal year, and shall make such recommendations as they shall see fit. And after October first, eighteen hundred and eighty-seven, the said commissioners shall, quarterly, on January first, April first, July first and October first of each fiscal year send to the comptroller a detailed, itemized and particular account of all receipts and expenditures, with sub-vouchers for the items thereof, for the preceding quarter, such accounts shall be verified by the oath or affirmation of the said commissioners or their treasurer. [*Thus amended by L. 1887, ch. 656.*]

Treasurer's bond. § 6. The treasurer appointed by the commissioners, pursuant to the provisions of chapter three hundred and thirty-six of the laws of eighteen hundred and eighty-three shall give a bond to the people of the state with two or more sufficient sureties to be approved by the comptroller in such sum as the com-

missioners shall determine, to the effect that he will faithfully perform the duties of his office and account for all moneys coming into his hands by virtue of his office as treasurer. Said bond shall be filed in the office of the secretary of state. [*Thus amended by L. 1887, ch. 656.*]

How money appropriated to be paid; comptroller's duty. § 7. Any moneys appropriated for caring for and maintaining said State Reservation at Niagara, and carrying out the provisions of this act, shall be paid to the order of the treasurer of the said commission by the treasurer of the state upon the warrant of the comptroller. But no warrant shall be issued until the amounts claimed shall have been audited and allowed by the comptroller, who is hereby authorized to determine the same, except that upon the requisition of the treasurer of the said commission the comptroller may advance out of said sum appropriated whatever moneys he may deem necessary for the proper carrying out of the provisions of this act. [*Added by L. 1887, ch. 656.*]

[L. 1887, ch. 656, § 7. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.]

[Supplementary Title.]

TITLE 5^c.

Of the State Agricultural Experiment Station.

L. 1880, Chap. 592 — An act establishing an agricultural experiment station.

The station established. SECTION 1. For the purpose of promoting agriculture in its various branches by scientific investigation and experiment, an institution is hereby established to be called and known as The New York Agricultural Experiment Station.

Board of trustees, names, terms of office, etc. § 2. The management of this institution shall be committed to a board of trustees, to be known as the board of control of the state experiment station. Robert J. Swan, William A. Armstrong, N. Martin Curtis, Stephen W. Clark, Patrick Barry, Robert J. Dodge, Jabez L. Woodward, Daniel Batchelor and James McCann shall be the first trustees of the institution, of whom the three first named shall hold office as such trustees for three years, the three next named for two years, and the three last named for one year from the first day of January, eighteen hundred and eighty-one. Whenever a vacancy shall occur in such board by expiration of the term of office of any member thereof or otherwise, the same shall be filled by the governor, and all trustees so appointed by the governor shall hold office for the term of three years, and until others be appointed in their stead. The governor shall be a member of the board by virtue of his office. [*Thus amended by L. 1881, ch. 702.*]

Officers, election of. § 3. The said board of control shall annually elect a president from their own number, and shall appoint a secretary and a treasurer to hold such offices during the pleasure of the board. Six members of the board shall be a quorum for the transaction of business. [*Thus amended by L. 1881, ch. 702.*]

[Sections 4 and 5 repealed by L. 1881, ch. 702.]

Powers of board, general manager, etc., annual report. § 6. Said board of control shall locate and have the general management of the station and shall appoint a director to have the general oversight and management of the experiments and investiga-

tions which shall be necessary to accomplish the objects of said institution, and may employ competent and suitable chemists and other persons necessary to the carrying on of the work of the station. Said board may acquire, by lease or otherwise, such real estate as may in their judgment be necessary for the carrying on of the work, and shall have the direction of the expenditure of all moneys appropriated to the institution for the purposes aforesaid, or otherwise received therefor, and shall annually make a full report to the legislature of their proceedings, receipts and expenditures. All property acquired by the said board shall belong to the state, and shall be disposed of and used only as authorized by law. [*Thus amended by L. 1881, ch. 702.*]

Appropriation; treasurer's bond. § 7. [Appropriates \$20,000 annually for two years.] And the treasurer of said board of control shall be required, before entering upon the duties of his office, to give bond with surety to the treasurer of the state, in the sum of ten thousand dollars, for the faithful discharge of his duties as such treasurer.

Members of the board to have no compensation; expenses to be paid. § 8. Every member of the said board may, by a vote thereof, be paid his necessary travelling expenses, as well as those incurred by him, while in actual attendance upon the meetings of the said board; but no member shall receive as such any other remuneration for his services in attendance on the meetings of the board.

Board to make rules, etc. § 9. Said board of control shall make such rules and regulations as may from time to time become necessary, to carry out the objects of the station.

Concurrent resolutions relative to the establishment of agricultural experiment stations in connection with colleges.

WHEREAS, On the second day of March, eighteen hundred and eighty-seven, an act of congress became law by the signature of the president of the United States, entitled "An act to establish agricultural experiment stations in connection with the colleges established in the several states under the provisions of an act approved July second, eighteen hundred and sixty-two, and of the acts supplementary thereto;"

AND WHEREAS, Section nine of said act provides, "That the grants of moneys authorized by this act are made subject to the legislative assent of the several states and territories to the purpose of said grants;" therefore,

1. *Resolved*, That the people of New York represented in senate and assembly do hereby give their assent to the purpose of said grants, in accordance with the provisions and requirements of said act;

2. *Resolved*, That the secretary of state be and hereby is directed to forward a copy of this concurrent resolution duly certified to the secretary of the treasury of the United States.

STATE OF NEW YORK,)
IN SENATE, *March 28th, 1887.*)

The foregoing resolution was duly passed.

By order of the senate,

JOHN W. VROOMAN, *Clerk.*

STATE OF NEW YORK,)
IN ASSEMBLY, *March 30th, 1887.*)

The foregoing resolution was duly passed.

By order of the assembly,

C. A. CHICKERING, *Clerk.*

TITLE VI.

Of Mortgages to the People of this State, and the Foreclosure thereof.

- SEC. 1. Mortgages to state may be foreclosed by notice, as under a power of sale. foreclosure to bar equity of redemption.
- 2. In foreclosures by notice, attorney-general to give notice, to conduct proceedings, and to execute conveyance.
- 3. Whenever he thinks proper, attorney-general may foreclose in equity.
- 4. Whenever premises mortgaged to state are advertised for sale, attorney-general may postpone sale to procure an appraisement of the value.
- 5. Pay of persons making appraisal.
- 6. If appraisal equals or exceeds the amount due state, attorney-general shall bid therefor to the amount so due.
- 7. If appraisal is less than amount due, he shall bid the amount of appraisal.
- 8. Whenever premises are struck off to attorney-general for less than the amount due, no more than amount bid is to be credited to mortgagor.
- 9. Where premises are not purchased for benefit of state, and the mortgage does not bear more than 6 per cent., interest, what to be required of purchaser.
- 10. If mortgage bears 7 per cent., what to be required of purchaser.
- 11. If premises sell for more than amount due the state, the purchaser to pay the surplus at time of sale.
- 12. Attorney-general to give purchaser certificate of terms of sale, etc.
- 13. When premises are sold under a notice or decree, the mortgagor or his heirs may redeem within 60 days.
- 14. What to be paid upon such redemption.
- 15. If premises redeemed were purchased by attorney-general, costs, etc., of sale are to be paid to him out of treasury; if not, the sum paid by the purchaser shall be repaid to him with 10 per cent. interest.
- 16. When premises purchased by attorney-general are not redeemed, he shall execute a conveyance to the state therefor.
- 17. In this case, the expenses incurred by him are to be paid out of the treasury.
- 18. When premises are purchased by any other person than the attorney-general, and not redeemed, conveyance to be executed to such purchaser.
- 19. When premises are advertised, terms of sale to be specified in advertisement.
- 20. In cases of foreclosure by notice, attorney-general to file affidavit of publication in secretary's office.

SECTION 1. All mortgages already executed, or hereafter to be executed to the people of this state, may be foreclosed, by giving notice, in the manner in which mortgagees are authorised to sell, under a power of sale; and every foreclosure so made, shall be an absolute bar of the equity of redemption, as against the mortgagor and all incumbrancers, subsequent to the state, and all persons claiming under him or them; and shall have the like effect against all parties in interest, except prior incumbrancers, as if the mortgage had been foreclosed in a court of equity.

How foreclosed by notice. 11 N. Y. 198.

§ 2. In all cases of foreclosure by notice, such notice shall be given by the attorney-general, who shall conduct the proceedings necessary to perfect every such foreclosure, and shall execute a proper conveyance, without warranty, to the purchaser.

[See L. 1839, ch. 381, *post*.]

§ 3. Whenever, in his judgment, it shall be proper, the attorney-general may proceed to foreclose the equity of redemption, in any lands mortgaged to the people of this state, in the court of chancery, or in the equity court of the district in which the lands may be situate.

[§19] In equity.

§ 4. Whenever any premises mortgaged to the people of this state, shall be advertised for sale, it shall be lawful for the attorney-

Postponement of sale, appraisal.

TITLE 6.

general, at any time before the premises are actually struck off, to postpone the sale at his discretion, for the purpose of enquiring into the value of the premises; and to employ such person or persons as he shall select, to appraise the same.

Pay of appraisers.

§ 5. The persons employed by the attorney-general to make any such appraisement, shall receive a reasonable compensation for the same, to be settled and allowed by the comptroller, and to be paid out of the treasury.

Sum to be bid.

§ 6. If the mortgaged premises are appraised at a sum equal to, or exceeding, the amount due the state, including costs and expenses, the attorney-general, on the sale of said premises, shall bid therefor in behalf of the people of this state, to the amount of the monies due and costs, in case such bidding shall be rendered necessary, to prevent the sale of such premises, for a less sum.

Ib.

§ 7. If the mortgaged premises are appraised at a sum less than the amount due the state, the attorney-general shall in like manner bid to the amount of such appraisement and no more.

Sum credited.

§ 8. Whenever any mortgaged premises shall be struck off to the attorney-general, for any amount, less than the amount of mortgage money, interest and costs, no greater sum shall be credited to the mortgagor or any other person, on account of such sale than the amount bid for the premises sold, deducting therefrom all costs and charges of sale.

Conditions of sale.

§ 9. In all cases of such sales, whether under a notice or decree, if the mortgaged premises are not purchased for the benefit of this state, the attorney-general shall, if the mortgage bear an interest not exceeding six per cent., require of the purchaser, at the time of sale, such sum as shall be equal to the costs and expenses of sale, and the one-fourth part of the monies due the state; and for securing the remainder of the monies due the state, he may, on the execution of a deed to the purchaser, accept a bond and mortgage on the premises, sold, from the purchaser, to the people of this state, payable in six equal yearly instalments, with interest at the rate of six per cent. per annum.

Ib.

§ 10. If the mortgage bear an interest of seven per cent. per annum, the attorney-general shall require of the purchaser, at the time of sale, the payment of the interest in arrear, with the costs and expenses of sale, and one-fourth part of the principal of such mortgage; and for the remainder, on the execution of a deed to the purchaser, he may accept from such purchaser a bond and mortgage, for the residue of the mortgaged money, to the people of this state, payable in six equal yearly instalments, with lawful interest; provided the title to the lands to be mortgaged, shall be clear, and the lands, exclusive of the buildings thereon, shall be worth double the principal of such new mortgage.

[1813]

Conditions of sale.

§ 11. If the mortgaged premises shall sell for a greater sum than the amount due the state and the costs and expenses of such sale, the attorney-general shall also require of the purchaser, at the time of sale, the payment of such surplus.

Certificate of sale.

§ 12. Upon every such sale, the attorney-general shall execute a certificate thereof to the purchaser, specifying the terms of the sale, and the amount paid by the purchaser; and in case the mortgaged

premises shall be redeemed as hereinafter provided, the sale shall be void and of no effect. TITLE 6.

§ 13. Whenever any mortgaged premises shall be sold, either under a notice or a decree, it shall be lawful for the mortgagor, or his heirs or assigns, to redeem the same, at any time within sixty days after such sale. Redemp-
tion.
5 Wend., 66.

[Modified by L. 1836, ch. 457, *post.*]

§ 14. Upon every redemption, the party redeeming shall pay into the treasury the full amount due the state and charged on said premises, together with the costs and expenses of such sale, and interest on the whole sum at the rate of ten per cent. per annum from the time of sale to the time of redemption; and if the premises were sold for a greater sum than the amount due the state and such costs and expenses, he shall also pay into the treasury the like interest on the surplus monies. Con-
ditions.

[The same.]

§ 15. If the premises redeemed shall have been purchased by the attorney-general for the benefit of the state, the amount of the costs and expenses of the sale shall be paid out of the treasury to the attorney-general: if the premises were not so purchased, there shall be paid out of the treasury to the purchaser, the sum actually paid into the treasury by him, together with the amount of interest thereon, at the rate of ten per cent. received from the person redeeming. Costs.

[The same.]

§ 16. Whenever any mortgaged premises purchased by the attorney-general for the benefit of the state, shall not be redeemed, he shall, if the premises were sold by him, immediately after the time allowed for redemption, and if the premises were sold under a decree, immediately after he shall have received a conveyance therefor, execute to the people of this state, a proper conveyance of said premises, which shall vest in the people the same title as would have been acquired by any other purchaser, at such sale, under a conveyance executed in pursuance thereof. Convey-
ance to
the
state.

[214]

§ 17. Whenever any mortgaged premises are so purchased by the attorney-general, and not redeemed, all the expenses incurred by the attorney-general in the sale thereof, shall be paid to him out of the treasury. Expenses.

§ 18. Whenever any premises mortgaged to the people of this state, shall be sold and purchased by any person other than the attorney-general, and not redeemed, a conveyance shall be executed to such purchaser, his heirs or assigns, at the expiration of the time allowed for redemption, on payment, by him or them, of the balance of the purchase money, on the execution of the proper securities therefor. [*Thus amended by L. 1847, ch. 99.*] Convey-
ance to
purchasers

§ 19. Whenever any premises mortgaged to the people of this state, shall be advertised for sale, whether the foreclosure be by Notice of
sale.

¹So in the original.

TITLE 6. notice or decree, the terms of the sale shall be specified in the advertisement.

[See L. 1831, ch. 102, *post.*]

Evidence
of sale.

§ 20. In all cases of foreclosure by notice, the attorney-general shall file the affidavits of the publication of the advertisement of sale, and of the circumstances respecting the sale, in the office of the secretary of state, to be there recorded; and such affidavits, or the record thereof, shall have the like effect, as if the same had been recorded in the office of the clerk of the county where the premises are situate.

[Statutes referred to, and in part re-enacted, in the compilation of this title. 1 R. L., 375, § 14; Ib., 484, §§ 2, 3, 4, 7, 8; L. 1814, p. 21, § 4; L. 1822, p. 286, §§ 1, 2, 3; L. 1824, p. 341, §§ 1 to 5, incl.; and L. 1825, p. 378.]

L. 1831, Chap. 102—An act concerning the foreclosure of mortgages to the people of this state.

Certain provision inapplicable to state mortgages. SECTION 1. Section four of title fifteen, chapter eight of the third part of the Revised Statutes, shall not apply to the foreclosure of mortgages to the people of this state.

Notice of sale. § 2. In the foreclosure of mortgages to the people of this state, by advertisement and sale, it shall be sufficient to state in the notice of sale,

1. The terms of the sale:
2. The name of the mortgagor:
3. The number, or other designation of the lot or parcel of land mortgaged, with the quantity as near as may be, and the name of the tract, patent, township, or purchase in which the same is situated, and a reference to the record of the mortgage or registry of the power to sell:

4. If a new account has been opened on the books of the comptroller, for any part of the lot or parcel of land mortgaged, the notice shall state whose new account, or whether what is called a residue or remainder, on said books, is intended to be sold.

L. 1836, Chap. 457—An act in relation to the sales of land by the attorney-general and surveyor-general.

Time of redemption. SECTION 1. The time allowed for the redemption of the land on sales made by the attorney-general, as provided for by the thirteenth section of title six, of chapter nine, of the first part of the Revised Statutes, is hereby extended to three months from the time of the sale.

Costs and expenses of sale to be paid. § 2. In addition to the sum to be paid out of the treasury to the purchaser, as provided for by the fifteenth section of the said sixth title, he shall be paid the costs and expenses of the sale, and the interest thereon, which shall have been paid into the treasury by the person who redeemed the land.

[The remainder of this act is on p. 619, *ante.*]

L. 1839, Chap. 381—An act concerning state mortgages.

Duty of attorney-general. SECTION 1. Whenever any mortgage, given to the people of this state, shall be proceeded upon by the attorney-general for the purpose of foreclosure, if any person, having title to a part of the mortgaged premises, by conveyance from the mortgagor, shall have made and delivered to said

attorney-general an affidavit, stating that such person has such title, and indicating with certainty the part of said mortgaged premises so claimed, it shall be the duty of said attorney-general, at the time appointed for the sale of said premises, first to sell such part of said mortgaged premises as has not been conveyed by said mortgagor; but in case the part so sold shall not produce enough to satisfy the amount unpaid on said mortgage and costs, then said attorney-general shall immediately proceed to sell such part or parts of said premises as may have been conveyed by said mortgagor, as aforesaid, and of which he has received notice as aforesaid; but where more than one part of said mortgaged premises, has been so conveyed as aforesaid, and of which notice has been given as aforesaid, the said attorney-general shall sell such parts in the inverse order of the dates of such conveyances, commencing with the part last conveyed by said mortgagor.

4 Denio, 254.

TITLE VII.

TITLE 7.

Of the Public Buildings and Erections.

- SEC. 1. "Capitol" and "state hall," in Albany, to retain those names.
- 2. Repealed.
- 3. Care of State hall vested in comptroller, secretary of state and surveyor-general.
- 4. Commissary-general to have care of state arsenals, etc.
- 5. State prisons to be under the care of their officers.
- 6. Marine hospital at Staten Island, to be under care of health commissioners of New York.
- 7. Pier at Saggs-Harbor to be under care of receiver of its profits.
- 8. Such receiver to give bonds.
- 9. To collect profits of pier and wharf connected with it; to account to comptroller.

[For the laws relating to various public buildings, erected since the R. S., see index, under the heads, Asylums, Military Code, State Prisons, etc.]

SECTION 1. The buildings in the city of Albany, now known as the "capitol," and "state hall," shall respectively continue to be known and denominated by those names.

Capitol and state hall.

[Section 2 was repealed by L. 1830, ch. 249.]

§ 3. The custody and care of the state hall, shall be vested in the comptroller, secretary of state, and surveyor-general; and the comptroller shall have power, from time to time, to cause such repairs as may be necessary to its preservation, to be made to the said building, and to draw his warrant on the treasury for the expenses thereof, not exceeding one hundred dollars in any one year.

Care of state hall. [215]

[L. 1826, 267; 1 R. L., 480, § 25. See L. 1834, ch. 66; 1840, ch. 295, *post.*]

§ 4. The custody and care of the several arsenals and magazines belonging to this state, and of the lands and buildings connected therewith, shall be vested in the commissary-general.

Arsenals, &c.

[L. 1823, 350, § 54; L. 1821, 228; 1824, 261.]

§ 5. The state prison at Mount-Pleasant, and the state prison at Auburn, and the lands and buildings connected therewith, shall severally be under the care of the officers charged therewith.

State prisons.

§ 6. The marine hospital at Staten-Island, and the lands and buildings connected therewith, shall be under the care of the commissioners of health of the city of New York.

Marine hospital.

TITLE 7.
State pier.

§ 7. The state pier at the port of Sagg-Harbor, shall be under the care of the receiver of the profits thereof.

[L. 1823, 350, § 54; L. 1821, 228; L. 1824, 261.]

Duty of receiver.

§ 8. Every person hereafter appointed to the office of such receiver, shall, before he enters on the duties of his office, execute a bond to the people of this state, in the sum of two thousand dollars, and with one or more sureties, to be approved of by the comptroller, conditioned for the faithful performance, by such receiver, of the duties of his office; which bond shall be filed in the office of the comptroller.

[L. 1823, 350, § 54; L. 1821, 228; L. 1824, 261.]

1b.

§ 9. It shall be the duty of such receiver to collect, from time to time, such portion of the profits arising from the state pier, and the long-wharf united with it, as the people of this state may be entitled to, under the appraisalment and valuation made in pursuance of the act entitled "An act relative to the state wharf at the port of Sagg-Harbor," passed April 10th, 1824. He shall account with the comptroller, at the end of each year, for all moneys received by him during such year, and after deducting ten per cent thereon, as a full compensation for his services, shall pay the balance into the treasury.

[L. 1823, 350, § 54; L. 1821, 228; L. 1824, 261. See L. 1830, ch. 249; L. 1834, ch. 66; L. 1840, ch. 295; L. 1841, ch. 213.]

L. 1834, Chap. 66 — An act in relation to the state hall.

Trustees of the state hall. SECTION 1. The governor, lieutenant-governor, the speaker of the assembly, the secretary of state, the attorney-general, the surveyor-general and the comptroller, shall be trustees of the state hall, and shall possess all the powers conferred by the acts, chapters two hundred and eighty-three and three hundred and twenty-three, of the laws of 1833.

To purchase land in Albany. § 2. The said trustees are authorized to purchase land in the city of Albany, in the vicinity of the capitol, of such extent as in their opinion will be required for convenient public buildings for the use of the state, and to cause to be erected thereon, a new state hall, upon such plan and of such dimensions as the public interests may require.

Duty of the state prison agent. § 3. The agent of the state prison at Mount-Pleasant shall cause to be prepared and delivered at the prison on the order of the trustees, the stone and all such other articles necessary for the building as can be manufactured at the said prison, and shall charge the same at a reasonable price.

Trustees to sell the present state hall. § 4. The said trustees shall sell the present state hall and the lands belonging thereto, as soon as the same can be done on terms advantageous to the public, and may contract to deliver possession of the same at such time, as in their judgment, the new offices will be completed.

[The remainder of this act temporary.]

L. 1840, Chap. 295 — An act in relation to the state halls.¹

Apartment for state officers. SECTION 1. Whenever the new state hall shall in the opinion of the trustees thereof, be so far completed that the same may be occupied,

¹ See L. 1840, ch. 245, in title 8^a, *post*, relating to the conversion of the old state hall into a museum.

it shall be the duty of the trustees to assign apartments therein for the use of the chancellor, judges of the supreme court, and register of the court of chancery, the secretary of state, the comptroller, the treasurer, the attorney-general, the surveyor-general, the adjutant-general, the clerk of the supreme court, the canal board and the canal commissioners; and thereupon the said officers shall remove their several offices to the apartments so assigned them, together with the books, papers and furniture belonging to them, except such papers or printed books and pamphlets as they may deem expedient to leave in the present state hall.

[Section 2 is omitted as temporary.]

Provisions respecting the old state hall. § 3. The commissioners of the land-office are authorized to receive from the mayor and common council of the city of Albany any additional conveyance for the lot in the said city, on which the old state hall is situated, which they may deem necessary to authorize the occupation of the same for such public purposes as the said commissioners may deem beneficial to the interest of the state, or as may be directed by law, upon such terms and conditions as may be agreed upon between them and the said corporation, and to cause such instruments to be executed as may be necessary to fulfil such agreement.

[Section 4 superseded by L. 1883, ch. 349.]

L. 1841, Chap. 218—An act relating to the examination of the treasurer's accounts, and the canal and banking departments.

Canal department. SECTION 1. All business relating to the canals of this state, and improvements connected therewith required to be performed by the commissioners of the canal fund, the canal board and the comptroller, shall be transacted in rooms appropriated for that purpose in the state hall, to be denominated the canal department.

[The remainder of this statute is obsolete.]

L. 1845, Chap. 98—An act for the erection of a flag-staff on the capitol.

[See, also, L. 1882, ch 190, § 7, *ante*, p. 150.]

Flag-staff to be erected. SECTION 1. The trustees of the capitol are hereby authorized and directed to cause a flag-staff to be erected on the capitol, for the purpose of displaying thereon the American flag, during the daily sessions of the legislature, and on public occasions, and to provide a suitable flag for this purpose. The necessary expense thereby incurred shall be paid out of the treasury on the warrant of the comptroller.

L. 1848, Chap. 260—An act to provide for the payment of certain expenses of government.

For repairs and furniture for new state hall, etc. § 5. The trustees of the new state hall shall have power from time to time to cause all such repairs and improvements to be made to the new state hall and the furniture therein, as shall be necessary to preserve it from decay, and keep the same in a safe and proper condition for public use; to cause the furniture in any of the apartments to be replaced if they shall deem it necessary; to cause the said apartments to be cleansed as often as they shall deem expedient; to direct the sidewalks and streets adjacent to be kept free from snow and ice, and to be swept and taken care of according to the ordinances of the common council of the city of Albany; the expense thereof shall be paid out of the treasury on the warrant of the comptroller.

[The remainder of this statute is obsolete.]

L. 1848, Chap. 284 — An act in relation to public officers in the new state hall.

Apartments to be assigned to state officers. SECTION 1. The trustees of the state hall shall assign apartments in the new state hall, for the use of the secretary of state, comptroller, treasurer, auditor of the canal department, attorney-general, state engineer and surveyor, canal commissioners, canal appraisers and clerk of the court of appeals.

[Supplementary Title.]

TITLE 7^A.

Of the Commissioner of the New Capitol and the Superintendent of Public Buildings; and their Powers and Duties.

[For additional statutes relating to each of these officers, see title 7^A, post.]

L. 1883, Chap. 146 — An act to create the office of commissioner of the new capitol, and defining its powers and duties.

Commissioner to be appointed; salary. SECTION 1. The governor, by and with the advice and consent of the senate, shall, within twenty days after the passage of this act, appoint an officer to be known as the commissioner of the new capitol, who shall hold office until the end of the term of the governor by whom he was nominated, and until his successor is appointed and qualified, unless said new capitol building is sooner completed, and on such completion said office shall cease; said commissioner shall receive a salary of seven thousand five hundred dollars per annum; he may be suspended or removed from office by the governor whenever in his judgment the public interests so require. In case a vacancy shall occur in the office of commissioner, while the senate is not in session, the governor may fill such vacancy by appointment, but such appointee shall hold his office no longer than the thirty-first day of January next succeeding his appointment.

Official oath and bond. § 2. Said commissioner, before entering upon the discharge of the duties of his office, shall take and subscribe the oath of office prescribed by the Constitution, and shall also furnish a bond with sufficient sureties to the people of the state of New York in the penal sum of fifty thousand dollars conditioned for the faithful performance of the duties of his office; said bond shall be approved by the comptroller and filed in his office.

Powers and duties of commissioner; not to incur liabilities beyond appropriation. § 3. Said commissioner shall have charge of the work of constructing, building and finishing the new capitol, removing the old capitol and state library building, and completing the arrangements of the approaches and capitol grounds, and for such purposes may employ labor, purchase the necessary material, and make contracts in connection therewith; but said commissioner shall have no power to contract any debt, obligation or liability on behalf of the state beyond the appropriations made for the completion of the new capitol at the time such debt, obligation or liability is created; all contracts which may be made shall be awarded to the lowest *bona fide* responsible bidder, after being advertised in the state paper four weeks preceding the letting of said contracts; said commissioner shall not have any interest in any contract in connection with the construction of said building, removing said buildings, completing the approaches or capitol grounds, or in the furnishing of any material or labor therefor; but said commissioner shall have no power to purchase any land, without authority hereafter expressly granted by law.

Accounts. § 4. The said commissioner shall keep just and true accounts of all expenses and obligations incurred during each month, which shall be made up and

rendered to the comptroller monthly, to be audited and allowed by him; warrants shall be drawn upon the state treasurer by the comptroller for the amount of each monthly account audited and allowed as aforesaid by him.

Payments. § 5. The state treasurer shall pay to the person or persons entitled thereto the amount due him or them each month, as the same shall be audited and allowed as aforesaid, and shall take proper receipts and vouchers therefor, which shall be kept on file in his office.

Inspector of the work; office of superintendent of capitol abolished. § 6 The governor shall have power to appoint and at pleasure remove a suitable person who shall be skilled in the construction of building and architectural plans, to inspect the work of the new capitol and report to the governor such facts as the governor may from time to time require, and such person shall receive such compensation as may be agreed upon and certified to by the governor, which shall be paid out of moneys appropriated for the construction of said new capitol, and when said commissioner of the new capitol shall enter upon his duties, the office of the present superintendent of the capitol is abolished.

Repeal. § 7. All acts or parts of acts inconsistent with this act are hereby repealed.

L. 1883, Chap. 349 — An act in relation to the capitol building and other public buildings belonging to the state, located in the city of Albany, and providing for a superintendent thereof.

Certain officers to be trustees of public buildings at Albany. SECTION 1. The governor, lieutenant-governor and the speaker of the assembly, by right of office are hereby constituted trustees of the new state hall, the geological hall, the capitol, and executive mansion, together with the grounds and premises belonging to the state adjacent to said buildings, respectively, so far as said grounds and premises are now laid out and completed, or as hereafter provided for in this section, and as the same shall hereafter be laid out and completed, excepting, however, that the completion of the building of said capitol shall remain in the hands of the new capitol commissioner appointed for that purpose, but the custody and care of the finished portions thereof, together with the entire public sidewalk bordering upon the capitol grounds and park, for the purpose of keeping the same at all times clear of snow, ice, dirt, and all other obstructions, and including also the public street or streets bordering upon said grounds and park, to the center line of such street or streets, for the purpose of keeping them clean, shall be, and hereby are, vested in the said trustees. [*Thus amended by L. 1888, ch. 380.*]

To appoint a superintendent of public buildings; his official term; bond; powers and duties. § 2. The said trustees shall appoint some suitable person to be superintendent of public buildings, who shall have the charge and care of the buildings and grounds mentioned in section one of this act, and shall receive an annual salary which shall not exceed the sum of three thousand five hundred dollars, to be fixed by said trustees, and shall observe such orders and directions relating to the preservation, the care of the maintenance department of said buildings, as shall, from time to time, be given him by said trustees. The superintendent provided for in this section shall hold office for the term of two years from the period of his appointment, and is required to give his constant attention to the duties of his office; and before entering thereon, he shall subscribe and take, before the secretary of state, the usual official oath of office. He shall also execute a good and sufficient bond in the penal sum of ten thousand dollars, with two sureties, to be approved by the comptroller conditioned for the faithful performance of his official duties, which oath heretofore required and bond shall be filed in the office of the secretary of state. Said superintendent, subject to the approval of the trustees, shall appoint all persons necessary in the maintenance department of the public buildings and grounds under his charge, and shall prepare rules and

regulations for the government of such employees; he shall have power to suspend any employee and remove him or her subject to the approval of the trustees; the said trustees shall take all necessary measures for the careful preservation of the furniture and other personal property belonging to the state which is or may hereafter be placed in the buildings hereinbefore mentioned, and shall require said superintendent to prepare annually in December, an inventory of all moveable property in his charge belonging to the legislative chambers or to the court or committee rooms and other rooms and parts of the buildings mentioned in section one of this act, which inventory shall be delivered to the trustees and be by them reported to the legislature on or before the fifteenth day of January then next following; he shall, with the approval of the trustees, purchase such articles as are required in the maintenance department, including coal, but such coal shall be purchased on bids, made after four weeks' advertisement for proposals, in two newspapers printed within the city of Albany, and the furnishing of said coal shall be awarded to the lowest bidder, taking into consideration the price and quality.

Rooms to be allotted in new capitol to different departments; pay of employees. § 3. The trustees named in section one of this act shall have authority and it shall be their duty to allot to the different departments and officers of the state government, and to the legislature such space and rooms in the new capitol and other buildings under their custody as they may be entitled to by law, and as in the judgment of said trustees shall be adequate and suitable. They are also authorized to fix the pay of all employees in the maintenance department under the charge of the superintendent of public buildings; they shall have power to remove the said superintendent and appoint another in his place by the vote of a majority thereof, and they shall report annually, on or before the fifteenth day of January in each year, to the legislature the sum of money which in their judgment is necessary for the expenses of the maintenance departments herein mentioned, for the ensuing year.

Superintendent may arrest disorderly persons. § 4. The superintendent of public buildings may, of his own authority and without process, arrest and convey before any magistrate of the county of Albany any person who shall be found drunk or disorderly, or in the commission of any felony or breach of peace within the buildings, or on the public grounds under his charge, to be examined and proceeded against in the manner by law provided for the punishment of such offenses, and such superintendent is authorized to designate not to exceed eight of his employees, who, upon taking the oath of office before the county clerk of Albany county, shall have the same power of arrest and presentment of complaint as in this section is given to said superintendent.

Repeal. § 5. All acts and parts of acts inconsistent with this act are hereby repealed.

[See L. 1887, ch. 134, in title 7^a, *post*, extending the powers, etc., of the trustees to the Senate House property at Kingston.]

[Supplementary Title.]

TITLE 7^a.

[Of the New Capitol.]

[The following statutes are those which relate to the construction, management, etc., of the new capitol and its appurtenances. Mere appropriation acts or temporary provisions have been omitted, in accordance with the general plan of the work.]

L. 1865, Chap. 648 — An act authorizing the erection of a new capitol.

Deed of land; commissioners to be appointed. SECTION 1. Whenever, within three years from the passage of this bill, the city of Albany or the citizens thereof, shall

deposit with the commissioners of the land-office of this state, a good and sufficient deed conveying to the people of the state of New York, in fee simple and unincumbered, all that certain piece or parcel of land generally known as Congress Hall block, in the said city of Albany, and bounded as follows: northerly by Washington avenue; easterly by Park place; southerly by Congress street and westerly by Hawk street; and furnish the proper evidence that the common council of said city of Albany, has closed and discontinued that part of Park place south of Washington avenue, and that part of Congress (late Spring) street, east of Hawk street, which said common council are hereby authorized to do, and thereupon, the streets so closed shall become the property of the state, and be included in, and form a part of the capitol grounds; the governor shall nominate, and by and with the consent of the senate, appoint a board of three commissioners, to be known as "The new capitol commissioners," for the purpose of erecting a new capitol for the use and accommodation of the executive, legislative and judicial departments of the state, and such other objects and purposes as may be connected therewith; and in case of a vacancy in the office of said commission, the governor is hereby authorized to fill the vacancy by appointment by and with the consent of the senate. In case the mayor, aldermen and commonalty of the city of Albany shall be unable to agree for the purchase of any real estate required for the purposes of this act, the state shall have the right to acquire the title thereto, and in case application shall be made therefor by the municipal authorities of said city of Albany, to the attorney-general, it shall be his duty for and in behalf of the people of the state, and in their name, forthwith to present a petition to the supreme court of the third judicial district, at any general or special term thereof, for the appointment of three commissioners of appraisal, and acquire title to such land in the same manner as railroad companies are authorized to acquire title to land in and by the provisions of chapter one hundred and forty of the laws of eighteen hundred and fifty, and all the provisions of said acts, so far as the same relate to the acquiring of property, are hereby extended and made applicable to the acquiring title to any property which may be needed for carrying out the provisions of this act, and on the payment into the state treasury by the municipal authorities of the city of Albany, of the amount awarded the owners of said property, it shall be deemed equivalent to depositing the deed named in the first section hereof. But nothing in this section contained shall be held or construed to oblige this state to pay any part of the money awarded for the said lands. And if the said mayor and commonalty of the city of Albany shall not comply with the provisions of the said award by paying the money named therein, according to the terms thereof, the state may abandon the proceedings for acquiring the title to said lands.

Oath and pay of commissioners. § 2. The commissioners shall, before entering upon the discharge of their duties, respectively take and subscribe the oath of office prescribed by the Constitution, and deposit the same in the office of the secretary of state. They shall not receive any compensation for their services; but their disbursements and expenses, to be audited by the comptroller, shall be allowed and paid.

Plans for capitol. § 3. The said board of commissioners shall immediately proceed, in such manner as they may deem best, to procure, at the expense of the city of Albany, or the citizens thereof, the requisite plans for a new capitol, and the necessary accommodations and arrangements connected therewith; and, upon the approval of such plan or plans by the commissioners of the land-office, shall, as soon as, and not before an appropriation shall be made by law, proceed with the work in accordance with the plans and specifications approved, as herein provided.

Location of capitol. § 4. The new capitol shall be located in the city of Albany, upon the site of the present capitol, and such grounds adjacent thereto as shall have been secured for that purpose, and conveyed to the state, as provided in the first section of this act, and built of such material and in such manner, in all

respects, as will, in the judgment of said commissioners and state officers, best promote the public interest and secure the completion of a substantial and commodious edifice for the use and purposes herein mentioned. But the present capitol shall not be removed until suitable rooms are completed in the new building for the accommodation of at least one branch of the legislature.

Accounts to be kept. § 5. The new capitol commissioners shall keep just and true accounts of all their receipts and disbursements, which shall be made up and rendered to the comptroller monthly, to be audited and allowed by him, and such audits shall discharge the said commissioners to the extent thereof.

Appropriation. § 6. The sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, for the commencement and prosecution of the work herein contemplated, and the necessary expenses attending the same, which sum the treasurer is hereby directed to pay, upon the warrant of the comptroller, to the order of the commissioners from time to time, and in such sums as shall be necessary.

L. 1866, Chap. 583—An act confirming the location of the capitol at Albany.

Capitol to be located at Albany. SECTION 1. The city of Albany having fully complied with the provisions of chapter six hundred and forty-eight of the laws of eighteen hundred and sixty-five, the location of the capitol and the site of the capitol building at Albany, are hereby ratified and confirmed.

L. 1874, Chap. 323—An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations.

[The "supply bill."]

(*Extract from section 2.*)

New capitol commissioners to appoint superintendent; governor may remove commissioner or superintendent, etc.; salary of superintendent; wall to be erected. The new capitol commissioners shall within thirty days from the passage of this act, nominate and by and with the consent and approval of the governor, appoint a superintendent who shall be a person of large experience, and who shall have charge of the work of finishing the new capitol, the employment of the labor and the purchasing of all the materials therefor. The term of office of the present superintendent shall terminate upon the appointment of his successor and within thirty days from the passage of this act. The governor upon specific charges made and upon notice to any such commissioner, or superintendent, may remove any such commissioner, or said superintendent for cause, after hearing and an opportunity given to answer such charges by such commissioner or superintendent, and may in case of the removal of any such commissioner, appoint a person in his place who shall hold his office until the first day of May thereafter, unless the vacancy shall be sooner filled by appointment by the governor, by and with the advice and consent of the senate. In case of the removal of the superintendent, the said new capitol commissioners shall, in the same manner and with the like consent and approval of the governor appoint his successor. The salary of said superintendent shall be ten thousand dollars per year. The new capitol commissioners are hereby directed forthwith to erect between the new capitol building and Congress Hall, a blank brick wall of sufficient length, thickness and height to protect the new capitol from injury by fire, in case the Congress Hall building shall burn.

L. 1875, Chap. 634 — An act making appropriations for certain expenses of government, and supplying deficiencies in former appropriations.

[The "supply bill."]

(Extract from section 1.)

New capitol commission. The board of new capitol commissioners, as heretofore constituted, is hereby abolished, and the powers and duties of said board are hereby devolved upon the lieutenant-governor, the auditor of the canal department and attorney-general of the state, who shall hereafter constitute the new capitol commission.

Detail plans and specifications. Before any portion exceeding fifty thousand dollars of the sum by this act appropriated for the construction of said new capitol shall be expended, full detail plans and specifications of the story of said building containing the legislative halls thereof shall be made and approved, in writing, by said lieutenant-governor, the auditor of the canal department, and attorney-general, [and not more than one-half of the said appropriation shall be expended before full detailed plans and specifications of the whole of the remainder of said building shall be made and approved, in writing, by the said lieutenant-governor, the auditor of the canal department, and attorney-general]¹, and when so approved they shall not be altered or departed from except by the concurrent written consent and approval of said lieutenant-governor, the auditor of the canal department and attorney-general, which said consent and approval shall be indorsed upon a plan accompanied by specifications, which shall fully and distinctly state the extent of such alteration, and the manner and extent the expense of said building will be affected by such alteration.

Materials and work. The furnishing of all the materials shall be by contract or contracts, and the doing of all of the work shall be by contract or contracts, except such portions thereof as, in the concurrent opinion of said commissioners, the interests of the state require to be done by day's work.

Contracts, award of; all contracts to be awarded to lowest bidder. All contracts shall be awarded to the lowest *bona fide* responsible bidder or bidders, after being advertised by the superintendent in the state paper once in each week for four weeks consecutively, immediately preceding the letting of said contract, the notice of letting to be signed by the superintendent, shall state the work to be let, the quality, quantity and kind of materials to be bid for, and the length of time which will be given for the completion of the work, or the delivery of materials, the amount of security required, the bonds to be furnished for the faithful performance of the contract. The proposals received shall be exhibited to the said lieutenant-governor, the auditor of the canal department and attorney-general, together with the proposed contract, which, on their concurrent written approval indorsed thereon, shall be entered into on the part of the state by said superintendent.

Rights to be reserved in contracts; when comptroller to borrow money; appropriations. The said contracts shall each reserve the right to the said superintendent with the concurrence of the said commissioners to declare the same forfeited whenever in the judgment of said superintendent and commissioners said contract is not being performed for the interest of the state. Whenever there is a deficiency in the treasury, of moneys applicable to the payment of the appropriation for the new capitol, the comptroller is hereby authorized and required to borrow, from time to time, such sums as the said commissioners may require; and the money borrowed shall be refunded from the moneys received from taxes levied to meet this appropriation.

¹ The portion in brackets repealed, L. 1876, ch. 2.

L. 1876, Chap. 193 — An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations.

[The "supply bill."]

Extract from § 1. Whenever there is a deficiency in the treasury of moneys applicable to the payment of the appropriation for the new capitol, the comptroller is hereby authorized and required to borrow, from time to time, such sums as the said commissioners may require, and the money borrowed, together with the interest thereon, shall be repaid from the moneys received from taxes levied to meet this appropriation.

The new capitol commissioners shall cause the work on the new capitol building to be progressed with such diligence as shall insure its readiness for full occupancy by the first day of January, eighteen hundred and seventy-nine, and if practicable, to complete and render tenantable some portion thereof at an earlier date.

The general plan for the exterior of the new capitol according to which the building has thus far been constructed having been adopted with the approval of the commissioners of the land-office and the governor, in pursuance of law, the same shall not be changed or modified, except upon like approval of the governor and a majority of the commissioners of the land-office.

L. 1877, Chap. 275 — An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations.

[The "supply bill."]

Extract from § 1. The new capitol commissioners are hereby directed to build and complete the exterior of the new capitol building in the Italian renaissance style of architecture, adopted in the original design, and according to the style in which the building was being erected prior to the adoption of the so-called "modified design."

L. 1878, Chap. 7 — An act making appropriation for continuing work upon the new capitol during the winter and spring of eighteen hundred and seventy-eight, and for the demolition of the buildings known as "Congress Hall."

[Section 1 omitted as temporary.]

Completion, etc., of assembly chamber, for occupation January 1, 1879. § 2. The said new capitol commissioners are hereby directed to take such measures as shall insure the completion and furnishing of that portion of the new capitol, containing the assembly chamber, for occupation, on the first day of January, eighteen hundred and seventy-nine, by the senate and assembly, and for that purpose to enter into contracts for the completion of such work in anticipation of the appropriation therefor. [*Thus amended by L. 1878, ch. 124.*]

Congress Hall, demolition of; commissioners may sell material of. § 3. The buildings known as Congress Hall, and deeded to the state by the city of Albany, shall within sixty days after the adjournment of the present legislature, be removed by the commissioners of the new capitol, and the land thereby made vacant shall be used thereafter exclusively by the state for the purposes of the capitol. In effecting said removal said commissioners are hereby authorized to sell or use the material of said building as a whole or in parts, in such manner as in the judgment of said commissioners shall best conduce to the interest of the state.

Extract from L. 1878, ch. 252 (the "Supply bill").

The new capitol commissioners are hereby charged with the care and superintendence of the north center portion of the new capitol building, when completed,

and with the employment of the necessary attendants and laborers therefor, and also with the duty of providing for the heating, lighting and cleaning of the same, out of appropriations herein made for the new capitol.

Extract from L. 1880, ch. 549 (the "Supply bill").

The new capitol commissioners are hereby charged with the care and superintendence of the south center portion of the new capitol building, when completed, and such other portions thereof as may be ready for occupancy on the first day of January, eighteen hundred and eighty-one, and with the employment of the necessary attendants and laborers therefor, and also with the duty of providing for the heating, lighting and cleaning of the same.

L. 1880, Chap. 138—An act making an appropriation to continue the work on the new capitol building.

Appropriation. SECTION 1. The sum of one million five hundred thousand dollars is hereby appropriated out of any moneys in the treasury of the state not otherwise appropriated, to continue the work on the new capitol building, which amount shall be paid by the treasurer, upon the warrant of the comptroller, to the order of the new capitol commissioners as they shall require the same.

Work, how to be done. § 2. The furnishing of all the materials and the doing of the work shall be by contract, or contracts, except such portions thereof as, in the concurrent opinion of said commissioners, the interests of the state require to be done by day's work.

Contracts, how to be awarded; proposals; rights reserved. § 3. All contracts shall be awarded to the lowest *bona fide* responsible bidder or bidders, after being advertised by the superintendent in the state paper once in each week for four weeks consecutively, immediately preceding the letting of said contract; the notice of letting to be signed by the superintendent, and to state the work to be let, the quality, quantity, and kind of materials to be bid for, and the length of time which will be given for the completion of the work, or the delivery of materials, the amount of security required, and the bonds to be furnished for the faithful performance of the contract. The proposals received shall be exhibited to the said capitol commissioners, together with the proposed contract, which, on their concurrent written approval indorsed thereon, shall be entered into on the part of the state by the said superintendent. The said contracts shall each reserve the right to the said superintendent, with the concurrence of the said commissioners, to declare the same forfeited whenever, in the judgment of said superintendent and commissioners, said contract is not being performed for the interest of the state.

Moneys to be borrowed. § 4. The comptroller is hereby authorized and required to borrow, from time to time, such sums as the said commissioners may require, not exceeding one million dollars in the whole, and the money borrowed shall be refunded from the moneys received from taxes levied to meet this appropriation.

How to be expended. § 5. The new capitol commissioners are hereby directed to expend the sum herein appropriated, or such portion thereof as may be necessary, toward the completion and furnishing of that portion of the new capitol building containing the senate chamber and its necessary approaches, and afterward that portion containing the executive chamber and its necessary approaches, and for roofing the east and south portions of the building containing those chambers. And the senate chamber shall be completed and furnished and ready for occupation, by the senate, on the first day of January, eighteen hundred and eighty-one.

1878—Concurrent resolution in relation to the capitol of the state of New York.

On motion of Mr. Alvord :

Resolved (if the senate concur), That from and after the first day of January, in the year eighteen hundred and seventy-nine, the new capitol building, in the city of Albany, shall be and the same is hereby declared to be the capitol of the state of New York.

STATE OF NEW YORK, }
IN ASSEMBLY, *May 14, 1878.* }

The foregoing resolution was duly passed.

By order of the assembly.

EDWARD M. JOHNSON, *Clerk.*

STATE OF NEW YORK, }
IN SENATE, *May 14, 1878.* }

The foregoing resolution was duly passed.

By order of the senate.

JOHN W. VROOMAN, *Clerk.*

L. 1881, Chap. 325—An act making an appropriation to continue the work on the new capitol building.

[All except § 4 is omitted as temporary.]

To demolish old capitol buildings. § 4. The new capitol commissioners are hereby authorized and required to provide for, and to demolish the old capitol building and the buildings and structures pertaining thereto, as soon as practicable; they shall cause to be used such of the materials, thus obtained, as shall be suitable, on the new capitol building; they shall cause to be sold all surplus materials thus obtained, by auction, to the highest bidder, for cash, after advertisement as provided in section three of this act, and shall apply all moneys received for materials so sold toward the completion of the new capitol. From and after the first day of January following the demolition of the old capitol, the "trustees of the capitol" shall assume control of the new capitol so far as then and so fast as thereafter completed.

L. 1882, Chap. 295—An act making an appropriation to continue the work on the new capitol building and to authorize the appointment, by the governor, of a commission who shall cause to be surveyed and examined the different parts of the new capitol as to the safety and durability of the work.

[Section 1 appropriates \$1,000,000.]

How appropriation to be expended. § 2. The sum appropriated by section one of this act shall be expended for completing entire the unfinished walls of the west center, and the pavilion adjoining north and south, and the completion entire of the roofs of the west center and adjoining pavilions north and south, and for the completion entire of chambers for the court of appeals and the state library as hereinafter provided; but no portion of said appropriation shall be expended upon material or work for a main tower, the east front approaches or grounds, the porticoes east, west, north or south, the east or west staircases or other staircases; and the plans and specifications for the parts to be completed by said appropriation shall be furnished complete to the new capitol commissioners by the architects on or before July first, eighteen hundred and eighty-two, and accepted or rejected by them, or the judges of the court of appeals, or the trustees of the state library, on or before August first, eighteen hundred and eighty-two, as hereinafter pro-

vided : Provided, however, that one hundred thousand dollars of the above sum may be expended as may be required by the commissioners of the new capitol for such interior work and furnishing not herein mentioned as they may deem proper.

Chamber for court of appeals. § 3. The said commissioners shall provide a chamber and other suitable and adequate accommodations for the court of appeals in such portion of the unfinished interior of the new capitol building as they may select, and the plans and specifications for the completion of such chamber and rooms for said court shall be submitted by the said commissioners to the judges of the court of appeals for their acceptance or rejection on or before August first, eighteen hundred and eighty-two, and when such plans shall be accepted by said judges on the written certificate, of the chief judge to said commissioners, they shall immediately proceed with the work of completion of said chamber and rooms according to such approved plans and specifications, and cause the same to be completed with all possible diligence.

Rooms for state library. § 4. There shall be constructed, in such unfinished parts of the interior of the new capitol building as the commissioners shall designate, an adequate and suitable room and rooms, for the accommodation of the state library and the trustees thereof, and the commissioners are hereby directed to submit plans therefor as provided in section one of this act, to said trustees for their acceptance or rejection on or before August first, eighteen hundred and eighty-two, and if such plans are accepted by said trustees, and their acceptance, duly certified in writing to said commissioners, said commissioners shall proceed to carry out such plans to a completion, by the prosecution of the work as rapidly as possible.

Not to supersede work on east center, front, etc. § 5. The work provided for in sections one, two, three and four of this act shall not supersede work now in progress on the east center (front) nor the north-east pavilion, nor in the south-west pavilion nor of the completion of the furniture of the rooms of the Adirondack survey of said building, but the said commissioners are hereby directed to complete such parts according to the plans now in progress, up to the roof line.

Architects to furnish specific plans for completion of front approach, etc. § 6. It shall be the duty of the new capitol commissioners to require of the architects detailed and specific plans on or before October first, eighteen hundred and eighty-two, for the completion of the front approach and entrance, and the west approach and entrance and the north and south porticoes, and the east and west staircases of said building, which plans shall be in a suitable condition whereon estimates may be made, and such plans and specifications shall be submitted to the finance committee of the senate and the committee of ways and means of the assembly, on or before January fifteenth, eighteen hundred and eighty-three, accompanied with a report of said commissioners as to what sum, in their opinion, will be necessary to complete the said separate parts according to said plans as mentioned in this section.

Rooms occupied declared completed and placed under control of officers, etc., named. § 7. The rooms and apartments now occupied in the new capitol building exclusively by the senate and assembly, executive department, adjutant-general, superintendent of insurance, superintendent of public instruction, superintendent of state prisons, secretary of state, state entomologist, Adirondack survey, state survey, state board of health and department of military statistics are hereby declared completed, and it shall not be lawful for the new capitol commissioners to expend any portion of the appropriation named in section one of this act in any room exclusively occupied by the departments named in this section, and the recognized authority in said departments hereafter shall be in the senate, the clerk of the senate, and in the assembly, the clerk of the assembly, and in the other departments the elective or appointed head of said department.

Work, etc., to be done and furnished by contract. § 8. The furnishing of all the material and the doing of the work provided for in the preceding sections of this act

shall be by contract or contracts except the purchase of such materials not exceeding five hundred dollars in any one item or amount or in the doing of any labor by day's work, as in the concurrent opinion of the commissioners the interests of the state require should be so done.

Commission to be appointed to examine and report on safety, etc. § 9. There shall be appointed by the governor of the state a commission to consist of two architects and one civil engineer, who shall survey and examine the different parts of the new capitol, as to the safety and durability of the work, more especially as concerns the assembly chamber, and the ceiling thereof, and the commission shall report within the next four months, recommending such alterations or changes as they may deem necessary to ensure the safety of the different parts of the building.

[Section 10 omitted as temporary.]

L. 1885, Chap. 330 — An act making an appropriation for continuing work on the capitol building, constituting a board of advisory commissioners of the capitol and regulating the number of persons to be employed on the work.

Board of advisory commissioners; duties of; proviso as to main portico and entrance way. SECTION 1. The governor, the attorney-general, the president of the senate, or, if there be no president, then the president *pro tempore* of the senate, and the speaker of the assembly are hereby constituted a board of advisory commissioners of the unfinished portion of the capitol. Such board shall at all times be familiar with the progress of the work upon the capitol building, and from time to time, and sufficiently in advance of the work for an economical and prudent administration thereof, shall designate, in writing to the commissioner of the capitol, the parts and portions of such building that shall be advanced or completed under the appropriations made by the legislature, and the commissioner of the capitol shall act in accordance with such instructions. Provided that the portico and entrance-way at the eastern facade shall be constructed by omitting therefrom the one-story portion or terrace and arcade shown on and contemplated by the drawings provided for this portion of the structure. Such board of advisory commissioners shall also designate the maximum number of persons to be employed on such work.

Commissioner to be sole architect; no political test for employees. § 2. The commissioner of the capitol shall be the sole architect thereof, and shall have the entire control of the construction of the same, except as by this act otherwise provided, and of the employment of all persons and the purchase of all materials necessary therefor, and may be removed by the senate on the recommendation of the governor. No person shall be employed or retained by such commissioner of the capitol unless he be competent to render full and proper service, nor shall any political test be applied in respect thereto, nor shall any person be discharged except for incompetency, offensive partisanship or the reduction of the number employed. No deputy commissioner shall be employed, nor shall any general powers, invested in the commissioner of the capitol, be delegated to any person. This section shall not prohibit such commissioner of the capitol from consulting or employing, for temporary service, any architect, or from employing assistants to act under his direction in making plans and specifications.

[Section 3, omitted as temporary.]

Existing plans. § 4. The existing plans of the building shall not be departed from or changed except upon the written assent of the board of advisory commissioners.

Quorum of board. § 5. All authority invested in the board of advisory commissioners may be exercised by a majority of such board and not otherwise.

L. 1885, Chap. 336 — An act to provide a boiler-house and coal sheds for use in heating the capitol.

Superintendent authorized to purchase site and erect boiler-house, etc. SECTION 1. The superintendent of public buildings is hereby authorized to purchase a site and erect thereon a boiler-house, coal sheds and necessary appurtenances; to remove thereto the boilers now in use in the basement at the capitol, and to substitute new boilers for any of such old ones as he may find to be unsuitable for further use, or to make repairs thereon; to make all necessary connections with the pipes in use in the capitol, for the purpose of conveying thereto heat and steam from such boiler-house; at an expense not to exceed one hundred and seventy-five thousand dollars.

Title to lands for a site, how acquired. § 2. If the superintendent of public buildings cannot agree with the owner or owners of the site of land so selected by him for the purchase thereof, he is hereby authorized and empowered to acquire, as hereafter provided, all the land necessary to carry out the provisions of this act for the use of the people of this state, upon making just compensation for the lands so taken, the object of such acquisition being hereby declared to be a public use. Upon the application of the said superintendent of public buildings, the supreme court at special term shall appoint three commissioners, who shall not be residents and citizens of the city of Albany, to select a suitable site for the erection of the boiler-house, provided for in section one of this act; and said commissioners shall thereupon proceed to examine and select a suitable piece of land near the new capitol, in said city of Albany, for the purposes of this act, and shall forthwith make and file with the clerk of said court a report, to be signed by said commissioners, or a majority of them, containing a description of the lands so selected by them; whereupon their powers and duties shall cease, and out of the sum herein appropriated, they shall be paid a reasonable compensation to be allowed by the court, upon the coming in of their report. Upon the filing of such report the superintendent of public buildings is hereby authorized and empowered to cause application to be made to the supreme court, for a writ of inquiry of damages to be paid for the land so selected, and such proceedings shall thereupon be had as is provided in the fourth article of title two of chapter nine of part three of the Revised Statutes.

\$175,000 appropriated; when to be paid. § 3. The sum of one hundred and seventy-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, for the purposes specified in the first section of this act, to be paid by the treasurer, on the warrant of the comptroller, to the order of said superintendent, upon his certificate that an indefeasible title, in fee simple, free and clear of incumbrances to said site, has been conveyed to the people of the state of New York.

Concurrent resolution relative to employees upon the capitol.

Resolved (if the assembly concur), That the commissioner of the capitol is hereby requested to remove and discharge every person in authority under or employed by him, who has heretofore applied or who shall at any time apply, directly or indirectly, any political test in the selecting or hiring of any employees on the capitol. That no person shall be employed, or retained in employment on the capitol, who is not by experience and education qualified to fill the position for which he may be an applicant, or for which he has been employed, and that said commissioners shall not employ any deputy or assistant who is not a skilled architect or builder.

STATE OF NEW YORK, }
IN ASSEMBLY, February 29, 1884. }

The foregoing resolution was duly passed.

By order of the assembly.

C. A. CHICKERING, Clerk.

STATE OF NEW YORK, }
IN SENATE, February 19, 1884. }

The foregoing resolution was duly passed.

By order of the senate.

JOHN W. VROOMAN, Clerk.

[Supplementary Title.]

TITLE 7^c.*Of Washington's Head-Quarters in Newburgh.***L. 1850, Chap. 265 — An act for the preservation of "Washington's Head-quarters."**

Appropriation for purchase. SECTION 1. The treasurer shall pay on the warrant of the comptroller, out of any moneys in the treasury not otherwise appropriated, to the commissioners of loans of the United States deposit fund, for the county of Orange, the amount of money due to such fund, which as appears from the last annual report of such commissioners, were loaned upon certain premises known as "Washington's Head-quarters," located in the village of Newburgh, in the said county of Orange, and which, including interest and costs, now amounts to the sum of two thousand three hundred and ninety-one dollars and two cents; and the commissioners of the land-office of this state are hereby authorized, in their discretion, to purchase for and on behalf of the people of this state, all those several lots, pieces, or parcels of lands formerly attached to and a part of "Washington's Head-quarters," in the village of Newburgh, Orange county, bounded and described as follows, viz.: beginning at the north-east corner of Liberty and Washington streets, in said village of Newburgh, and running thence eastwardly along the south side of Washington street seven hundred and twelve feet, thence southerly and parallel with Liberty street two hundred feet, thence westwardly and parallel with Washington street seven hundred and twelve feet to Liberty street, thence northerly along the east side of Liberty street to the place of beginning, excepting such parts thereof as now belong to the people of this state, at a sum not exceeding six thousand dollars; and the treasurer shall pay, on the warrant of the comptroller, out of any moneys in the treasury not otherwise appropriated, to the owner or owners of said lots and premises, the price which the said commissioners of the land-office shall agree to pay for the same, upon the execution and delivery of good and sufficient deed or deeds of conveyance, therefor vesting the title of said premises in the people of this state; and the sum of six thousand dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, to be applied to the purchase of said lots. [*Thus amended by L. 1851, ch. 509.*]

(L. 1851, ch. 509, § 2. The commissary-general may, in his discretion, deposit such articles or relics of the revolutionary war, belonging to this state, as in his opinion are suitable to be deposited, for safe keeping at said head-quarters.)

Title to remain in people. § 2. The title of the aforesaid premises shall be retained by, and shall remain in the people of this state.

Trustees of Newburgh to take possession. § 3. The trustees of the village of Newburgh, shall have power and are hereby authorized to take possession of the aforesaid premises with the appurtenances thereunto belonging, for the purpose of improving the said premises and of preserving the stone building thereon known as "Washington's Head-quarters."

By-laws and regulations. § 4. The aforesaid trustees, shall have power and are hereby authorized to make such laws and regulations as shall be deemed necessary, and to provide for enforcing the same, for the preservation of the buildings, tenements, fences, improvements, now on, or hereafter to be made upon the aforesaid premises, as hereinafter provided and directed.

Building to be repaired. § 5. It shall be the duty of the aforesaid trustees:

1. To cause the said stone building known as "Washington's Head-quarters," to be put in a state of preservation and reasonable repair, at an expense not to exceed one thousand dollars, which shall include the making and repair of the fences on and around the said premises; but the said repairs shall be made wholly for the purpose of preservation, and shall not in any way change the plan or

alter the appearance of the building or apartments; but the same shall be preserved as far as possible, in all respects as they were at the time of its occupation by General Washington.

Flag-staff to be erected. 2. To erect a flag-staff from the top of the aforesaid stone buildings or in the vicinity thereof, and to procure an United States flag of good, strong materials and of large size, and cause the same to be hoisted and unfurled from said flag-staff on all days of national or state commemoration, celebration, or rejoicing, and upon such other appropriate days during the travelling and pleasure seasons, as may be deemed advisable by the trustees of the village of Newburgh; upon which flag shall be inscribed, in large letters, the following motto, "Liberty and union, now and forever, one and inseparable." The expense of said flag-staff and flag shall not exceed the sum of five hundred dollars.

Walks and shade trees. 3. To make suitable walks, and to plant shade and ornamental trees and shrubbery upon the said premises in such place or places as shall be deemed most necessary and appropriate; the expense whereof shall not exceed two hundred dollars.

Steward to be appointed. 4. And to appoint some discreet person as steward of the aforesaid premises and the buildings and improvements thereon, whose duty shall be to take charge of the same, to see that the laws and regulations for the preservation thereof are enforced, to hoist and lower and at all times to take charge of said flag, and to admit travellers and strangers upon the premises and show them the apartments of the buildings and their contents, at all reasonable times and in a courteous manner. Such steward shall be reasonably compensated for such services by the said trustees, but not to exceed in any one year the sum of one hundred dollars.

Annual account to be kept of all expenses and audited by comptroller. § 6. The aforesaid trustees shall keep a true and just account of all disbursements made or incurred by them in carrying out the provisions of this act, which account shall be duly verified by the chairman and clerk of said trustees, to the effect that the several items of such disbursements contained in such account have been necessarily and reasonably made or incurred, and that the same are correct according to the best of their knowledge, information and belief, which account shall be accompanied with the vouchers or duplicates thereof, of such disbursements; and such accounts and vouchers shall annually be rendered to the comptroller who shall audit the same, and for the amount thereof allowed by him, he shall execute his warrant for the payment thereof by the treasurer out of the moneys appropriated by this act, and the sum of four thousand one hundred and ninety-one dollars and two cents is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to pay the expenses incurred under this act.

L. 1875, Chap. 147 — An act to amend "An act to provide for the care of the lands and buildings known as Washington's Head-quarters, in the city of Newburgh, and the property connected therewith," passed May eleven, eighteen hundred and seventy-four; chapter four hundred and twenty-six.

Trustees appointed; terms of office of, and how determined; annual appointment of; first meeting. SECTION 1. W. C. H. Sherman, James W. Taylor, James G. Graham, C. B. Martin, David Carson, Peter Ward, E. C. Boynton, Joseph H. H. Chapman, Joel T. Headley and David Moore are hereby appointed trustees of Washington's Head-quarters in the city of Newburgh, in the county of Orange, two of whom shall serve for one year, two for two years, two for three years, two for four years, and two for five years, to be determined by lot by said trustees at their first meeting, whose terms of office shall expire on the first day of April in said years respectively. And annually thereafter two trustees shall be appointed by the governor and senate to serve five years, and until others are appointed in their

stead. The first meeting of said trustees shall be held on the first Tuesday of May, one thousand eight hundred and seventy-five, and annually thereafter on the first Tuesday of April in each and every year, at which meeting they shall appoint from their number a president, secretary and treasurer; and the said trustees shall be known as the board of trustees of Washington's Head-quarters.

Powers and duties of trustees; debts not to be incurred. § 2. The said trustees shall have the care and management of said head-quarters, including the grounds belonging thereto; and shall direct the expenditures of all moneys appropriated, subscribed or donated for the care or improvement of said head-quarters and the said grounds, with power to make rules for the regulation thereof, and it shall be their duty to provide for the preservation thereof, and for the protection of all property belonging to the state of New York deposited therein; but no debt shall be incurred, and no expenditure made unless funds are in the hands of the said trustees to meet and pay such liabilities. Nor shall the state at any time be called upon for any appropriation for any expenses connected with said head-quarters or for any improvement thereof, except as provided in the next section of this act.

Superintendent, appointment, duties and compensation of. § 3. The said trustees may appoint a superintendent who shall reside on the premises, and keep the same open for visitors, at all reasonable hours (at a compensation not to exceed five hundred dollars annually, which shall be paid to the president of said trustees in equal semi-annual payments on the first of April and October in each year, by the treasurer of the state, on the warrant of the comptroller, out of any funds of the state not otherwise appropriated); and the further amount of five hundred dollars shall be paid annually in the same manner, for repairs to said property, and appurtenances thereof; and the care of the grounds belonging thereto.

Trustee or superintendent not to be interested in contract. § 4. No trustee or superintendent shall have any interest, direct or indirect, in any contract for materials or labor, provided pursuant to this act. Nor shall any trustee, president, secretary or treasurer receive any compensation for any services to be rendered by him or them in connection with said head-quarters.

Account of expenditures to be kept; annual report, trustees to make. § 5. The said trustees shall keep an accurate account of all expenditures made by them for the care and improvement of said property belonging to the state, and shall annually render to the comptroller of the state by the first day of December in each year, a report and statement duly verified by the oath of their president of all expenditures made by them for said purposes, and to be accompanied by the vouchers for said expenditures, and a general statement of the condition of said property.

[Section 6 repeals inconsistent acts.]

L. 1882, Chap. 355—An act making an appropriation toward the expenses of a centennial celebration at and in the vicinity of the Head-quarters of Washington at Newburgh, in the year eighteen hundred and eighty-three, of the disbandment of the army of the Revolution and the declaration of peace, and other revolutionary events, and for the erection of certain memorial structures.

[Section 1 appropriates \$15,000.]

How appropriation to be disposed of. § 2. The sum of ten thousand dollars of the money hereby appropriated shall be paid by the said mayor of the city of Newburgh and the president of the board of trustees of Washington's Head-quarters at Newburgh, to the secretary of war of the United States, to be applied by the latter toward the building of the monument to be erected on the grounds of said Washington's Head-quarters, and for which the sum of twenty-five thousand dollars has been appropriated by congress, the balance of the sum hereby appropriated, viz.: five thousand dollars, shall be applied by the executive committee having charge of said celebration in defraying the expenses of the ceremonies attending the dedication of said monument, and the general expenses of said centennial celebration. [Thus amended by L. 1883, ch. 162.]

[Supplementary Title.]

TITLE 7^D.

Of the New York State Soldiers' and Sailors' Home.

L. 1878, Chap. 48 — An act to authorize the transfer to the state of the Soldiers' Home, and the appointment of a board of trustees for its completion and control.

Conveyance to the state authorized. SECTION 1. The Grand Army of the Republic Soldiers' Home of New York, a corporation organized pursuant to chapter two hundred and seventy, of the laws of eighteen hundred and seventy-six, is hereby authorized and empowered to transfer and convey by deed and bill of sale, all its real and personal property, wherever situated, to the state of New York, the deed conveying its real estate to be executed under the hands and seals of its president and secretary, or the seal of the corporation, if it has one, duly acknowledged, and to be recorded in the clerk's office of the county in which the property is situated, and the bill of sale of its personal property to be executed in like manner, and to be filed in the office of the secretary of state.

Trustees, how and when appointed; ex-officio members; terms of office of trustees; vacancies in board of, how filled. § 2. Upon the due execution (within one year from the passage of this act) of such deed and bill of sale, and upon such recording and filing thereof, and upon its being made to appear to the satisfaction of the comptroller of this state, that the contracts then existing for the erection of buildings on such real estate, for the purposes of said corporation, have been made with a due regard to economy and fitness, and are such as the comptroller shall approve, which approval shall be in writing, and transmitted to the governor for his information; the governor shall nominate, and by and with the advice and consent of the senate, appoint nine reputable citizens of this state, as a board of trustees for the completion, management and control of said Soldiers' Home, of which board, the governor and attorney-general shall be *ex-officio* members. Three of the trustees so appointed shall hold office for three years, three for two years, and three for one year from and after the fifteenth day of January next preceding the day of their appointment; and annually thereafter, on or before the fifteenth day of January, three like citizens of this state shall be appointed trustees of said Soldiers' Home, in the place of those whose terms of office are so to expire, in like manner as the original nine are to be appointed; but the term of office of no trustee shall be deemed to have expired until his successor shall have been appointed and qualified. All vacancies occurring in said board by resignation, death, removal from the state, or otherwise, shall be filled by the governor in like manner as the original nine trustees shall be appointed.

Expenses to be paid, but no other compensation, except to secretary. § 3. Said trustees shall receive no compensation for their services as such trustees or otherwise, except their actual and necessary travelling expenses incurred in attending the meetings of the board, or in the discharge of any duty connected therewith, as may be imposed on them by direction of the board of trustees or by law. But the trustee who may be elected to act as the secretary may receive a reasonable compensation for his services, to be fixed by the board with the approval of the comptroller, not to exceed the sum of two hundred and fifty dollars. [*The remainder of § 3, repealed by L. 1886, ch. 593.*]

Notice of appointment, etc.; terms of office, how determined; officers; corporate name. § 4. The secretary of state, within ten days after the appointment of said trustees as hereinbefore provided, shall notify them by letter of their appointment, and invite them to meet at a specified day and hour, not less than ten days nor more than fifteen days from the time of giving such notice, at the office of the secretary of state in the city of Albany, for the purpose of organization; at which

time the said trustees shall by lot determine their respective terms of office, in such way as a majority of them may agree upon. The secretary of state shall act in such drawing for such trustees as may not be present. Upon taking the oath of office before the secretary of state, the said trustees in conjunction with *ex-officio* members, and annually thereafter, shall proceed to elect by ballot a president, a secretary, and treasurer; the offices of the latter two being joined in one trustee, or held separately by two as the board may determine, and an executive committee. When so organized, the said board shall be known as the board of trustees of the New York State Soldiers' and Sailors' Home.

Trustees' powers, etc. § 5. Said board of trustees shall at once take possession of all the property of said corporation so conveyed to the state, and proceed to complete the buildings already begun, or hereafter to be erected, and have them ready for occupation, with all suitable dispatch, with any funds appropriated therefor, or which may come into their hands for such purpose; and shall pay any existing indebtedness of said corporation, which shall be or may become a lien thereon. Said board shall have power to make contracts in their name for work and materials, for the completion of buildings on said property, the furnishing thereof, and the furnishing of supplies for use and consumption therein, but shall spend no more money or incur any indebtedness for such purposes, beyond the appropriation previously made therefor by the legislature, and shall also have power to adopt and establish such rules and regulations, specifying the duties of its officers and for the government of its inmates, fixing the terms and conditions of admission to said home, and prescribing the causes and manner of expulsion therefrom, as may by them be deemed necessary. But no such contract shall be entered into and no such rules and regulations shall be operative, until the same shall have been submitted to and approved by the comptroller; and they may require and take in their name, any security, by way of bond, or otherwise, from any person appointed or elected by them and their sureties, for the faithful performance of the duties for which the appointment or election is made or had, and for truly accounting for all moneys or property received by such person on account of such trustees.

Persons entitled to admission. § 6. Every honorably discharged soldier or sailor who served in the army or navy of the United States during the late rebellion, who enlisted from the state of New York, or who shall have been a resident of this state for one year preceding his application for admission, and who shall need the aid or benefit of said home, in consequence of physical disability, or other cause within the scope of the regulations of the board, shall be entitled to admission to said home, subject to the conditions, limitations and penalties prescribed by the rules and regulations adopted by the board.

Annual report to legislature. § 7. The said board shall annually, on or before the fifteenth day of January, in each year, make to the legislature a detailed report of all its receipts and expenditures, and of all its proceedings for the previous year, together with full estimates for the coming year, verified on oath by the president and treasurer; and shall make such other and further reports, as the legislature may from time to time require.

L. 1879, Chap. 407 — An act to provide for the care and maintenance of insane inmates of the New York State Soldiers' and Sailors' Home.

Transfer of inmates to state lunatic asylum; expense of maintenance. SECTION 1. Any soldier or sailor who may have been regularly admitted into the New York State Soldiers' and Sailors' Home, at Bath, who shall be found to be insane, may be transferred, by an order of the president and secretary of the board of trustees

and the superintendent of the home, to any state lunatic asylum, there to remain at the expense of the New York State Soldiers' and Sailors' Home until legally discharged; said expense to be paid out of the maintenance fund of said home, and at the same rate as is charged for the support of the county insane.

[Supplementary Title.]

TITLE 7^E.

Of the Senate House at Kingston.

L. 1887, Chap. 134 — An act to provide for the purchase and care of the Senate House property at Kingston.

Trustees of public buildings may purchase the property; to have charge, etc., thereof; repairs, etc.; keeper; his compensation; rules. SECTION 1. The trustees of public buildings, designated by chapter three hundred and forty-nine of the laws of eighteen hundred and eighty-three, are authorized and directed to purchase in the name and on behalf of the people of the state of New York, at a price which, in their judgment, shall be a fair value, the property at the city of Kingston, Ulster county, known as the Senate House property, and are charged with the care, custody and supervision of the same. The said trustees are authorized to make such repairs and improvements to the building and grounds as, in their judgment, may be necessary for the proper preservation of the building as nearly in its original style as may be practicable, and for the protection and ornamentation of the grounds connected therewith. The said trustees are also authorized to appoint some suitable person at Kingston, as keeper of the building and grounds, and to exhibit the same to visitors, free from cost or charges of any kind to visitors, and to be in immediate charge of the premises. The person appointed keeper shall be entitled to compensation for his services, to be fixed by the said trustees, not exceeding six hundred dollars a year. Said trustees shall prescribe appropriate rules and regulations for the care and superintendence of the building and property, and such rules as they may deem expedient relating to visitors to the same, and shall prescribe generally the duties of the keeper, and shall also provide for water, fuel and light for the building.

General powers and duties of trustees. § 2. The said trustees shall direct the expenditure of all moneys appropriated, subscribed or donated by the state or the city of Kingston, or by any individual for the care or improvement of the said Senate House and the grounds connected therewith, and it shall be their duty to provide for the preservation thereof, and for the protection of all property belonging to the state of New York that may be deposited therein.

Appropriation; on what condition payable. § 3. The sum of twelve thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purchase of the said Senate House property, and for the repairs and improvement of the building and premises, and the other necessary expenses authorized by this act in the management and custody of the same. But no part of this sum shall be expended until a contract for the purchase of such property shall be secured, and contracts for the improvement of the building and grounds shall also be secured, which shall satisfy said trustees that all the costs herein contemplated, including the cost for care and maintenance for one year, will not exceed the sum herein appropriated; nor until the attorney-general shall be satisfied that the title to be acquired by the state shall be good and sufficient for the purposes herein contemplated.

TITLE 8.

TITLE VIII.

Of the State Library.

- SEC. 1. Annual appropriation of one thousand dollars for its enlargement.
 2. Three hundred dollars to be paid annually by assistant register of the court of chancery, out of its fund.
 3. When the expenses of the court will not allow of that sum, it is to be reduced.
 4. Trustees of library to report annually to legislature.
 5 and 6. Trustees to appoint a librarian, and to prescribe regulations of library.
 7. President of senate and speaker of assembly, before granting certificate to members, shall see that they have returned books taken from library.
 8. No book or map to be taken, except by members of legislature.
 9. Contingent expenses of library paid out of treasury.

[216]
Annual
appropriations.

SECTION 1. There shall be paid out of the treasury, to the trustees of the state library, in every year, the sum of one thousand dollars, for the gradual enlargement of the library.

[L. 1827, 318, § 2.]

Three hundred dollars from chancery fund.

§ 2. It shall be the duty of the court of chancery, to direct the assistant register of that court to pay, in the month of May, in each year, to the said trustees, out of the interest or profits arising from the surplus of the common fund appertaining to the court of chancery, and under the particular charge of such assistant register, the sum of three hundred dollars, to be expended in the gradual enlargement of the library.

[L. 1825, 302, § 2.]

May be reduced.

§ 3. If at any time the interest or profits of said fund shall not be sufficient to discharge the contingent expenses of the court of chancery, and also the annual appropriation of three hundred dollars, the court of chancery may direct that such annual sum be so reduced, that the expenses of the court shall be first paid.

[L. 1825, 302, § 2.]

Annual report.

§ 4. It shall be the duty of the trustees of the state library, annually to report to the legislature, the manner in which the moneys by them received during the year preceding, have been expended; together with a true and perfect catalogue of all the books, maps and charts then remaining in the library.

[L. 1825, 302, § 4.]

Librarian.

§ 5. The trustees shall have power, from time to time, to appoint a librarian to superintend and take care of the library; and to prescribe such rules and regulations for the government of the library, as they shall think proper.

[L. 1818, 297, § 2.]

Regulations.

§ 6. It shall be the duty of the trustees to provide, in their regulations, that any member of the senate or assembly, during the session of the legislature, or during the sitting of the court for the correction of errors, or of the senate only, shall be permitted, under proper restrictions, forfeitures and penalties, to take to his boarding-house, or private room, any book belonging to the library, except such books, as the trustees shall determine are necessary always to be kept in the library, as books of reference; but no member of the legislature shall be permitted to take or detain from the library, more than two volumes at any one time.

[L. 1825, 303, § 5.]

§ 7. Before the president of the senate, or the speaker of the assembly, shall grant to any member a certificate of the time of his attendance, he shall be satisfied that such member has returned all books taken out of the library by him, and has settled all accounts for fines, for injuring such books, or otherwise.

TITLE 8.
Members
to return
books.

[L. 1825, 303, § 5.]

§ 8. It shall also be the duty of the trustees to provide in their regulations, that no book, map, or other publication, shall be at any time taken out of the library by any other person than a member of the legislature, for any purpose whatever.

Books, &c.,
not to be
taken out.
(217)

[L. 1818, 297, § 2; L. 1825, 303, §§ 3 and 6; L. 1829, ch. 188.]

§ 9. The contingent expenses of the library, incurred for stationery, fire-wood, candles, and the binding of the books purchased for or deposited in the library, shall be duly certified by a majority of the trustees, and paid out of the treasury.

Contingent
expenses.

[L. 1818, 297, § 2; L. 1825, p. 303, §§ 3 and 6; L. 1820, ch. 188.]

L. 1840, Chap. 381 — An act in relation to the state library.

Duties and powers of trustees. § 3. The acting trustees will, from time to time, give directions to the librarian in relation to the proper and safe keeping of the books, maps, charts and other property belonging to the said library, and may by way of amercement, for every violation or neglect of duty, suspend or deduct from his salary or emolument any part thereof not exceeding half of it in any one year.
[The remainder is omitted as temporary.]

L. 1844, Chap. 255 — An act in relation to the state library.

Trustees. SECTION 1. The regents of the university of the state of New York are hereby constituted and shall continue the trustees of the state library.

Money to be paid over. § 2. The present trustees of the state library shall, immediately after the passage of this act, pay over to the secretary of the regents of the university, all sums remaining in their hands unexpended of moneys appropriated by law for the purposes of the said library, and shall also deliver to the said secretary, all books, documents, vouchers and papers in their custody or under their control, belonging or relating to the said library.

Librarian how to be appointed. § 3. The trustees hereby appointed shall have power, from time to time, to appoint a librarian to superintend and take care of the said library, and to prescribe such rules and regulations for the government of the library, as they shall think proper; and to remove the librarian at any time when they shall deem it expedient; but for the purpose of removing or appointing a librarian, twelve of the said trustees shall be required to form a quorum.

Contingent expenses. § 4. The contingent expenses of said library, incurred for stationery, fixtures, fuel, candles, binding of the books purchased for or deposited in the library, and the expenses of cleaning the apartments in which the library is kept, and providing, from time to time, necessary furniture for the same, shall be duly certified by the chancellor and secretary of the regents of the university, and paid out of the treasury of this state; but that portion of the said contingent expenses appropriated to the purchase of stationery and candles, shall not exceed the sum of seventy-five dollars for each year.

Library, how to be kept open. § 5. The state library shall be kept open, every day in the year, Sundays excepted, during such hours in each day as the trustees of said library may direct.

Duty of librarian. § 6. The librarian shall be constant in his personal attendance upon the library, during the hours it shall be directed to be kept open, and shall perform such other duties as may be imposed by law or by the rules and regulations which may be prescribed by the said trustees. He may appoint some person of a suitable age and having proper qualifications for the situation, as assistant, but such appointment shall be submitted to the trustees for their approval, and shall not be effectual without such approval.

Annual report. § 7. It shall be the duty of the trustees of the state library annually to report to the legislature, the manner in which the moneys by them received during the year preceding have been expended, together with a true and perfect catalogue of all the books, maps and charts which have been added to the library since the date of the last preceding annual report, and whether any, and if so, what books, maps and charts have been lost; and also at the end of every five years, to report in like manner a full and perfect catalogue of all the books, maps and charts then remaining in the library.

Salary. § 8. The salaries of the librarian and his assistant, shall be regulated by the trustees at such sums as they shall deem reasonable, not exceeding in the whole for both of them, the sum of eight hundred and twenty-five dollars per annum; and such salaries shall be paid quarterly or monthly in the discretion of the trustees.

[Section 9 repeals inconsistent acts.]

L. 1845, Chap. 85 — An act relative to the state library.

Books. SECTION 1. The heads of the several departments, and the trustees of the state library shall have the same right to take books from the library as is now enjoyed by members of the legislature.

New catalogue to be made. § 2. The said trustees are hereby authorized to prepare a new catalogue of the library as soon as conveniently may be, and to cause the same to be printed, the expense of which, together with all the contingent expenses of the library, as certified by the trustees, shall be paid out of the treasury.

Imperfect books may be sold. § 3. The trustees of the state library may, from time to time, sell or exchange duplicate or imperfect books belonging to the library, not necessary for the use thereof.

Book-cases. § 4. The trustees shall cause the book-cases in the miscellaneous library, if they shall deem it necessary so to do, from time to time, to be enclosed with glass or wire doors, as they may deem best, the expense of which shall be paid as part of the contingent expenses of the library.

Lights, stationery and salary. § 5. The allowance for lights and stationery in the state library is hereby increased fifty dollars per annum; the annual allowance for the salary of the librarian and assistant is hereby increased one hundred and seventy-five dollars, to be divided among them as the trustees shall direct.

Appropriation to purchase D. B. Warden's library. § 6. The sum of four thousand dollars is hereby appropriated, to be paid on the order of the said trustees out of the treasury, for the purchase of the library of David B. Warden, of Paris, to be deposited in the state library, referred to in a report of the said trustees, made to the assembly on the thirteenth day of January last; provided the said library be delivered to the trustees for that sum, without any charge for transportation, or other expenses of any description.

Laws, etc., to be sent to foreign governments. § 7. The said trustees shall annually hereafter, as long as they may consider it proper, transmit to the French government, and to such other foreign governments as may have made donations to this state, in books or works of art, a duplicate copy of the Session Laws and legislative documents of this state.

L. 1848, Chap. 262 — An act making appropriations for the state library.

Assistant librarian, etc. [Part of § 2.] The assistant librarian and messenger shall be appointed by the trustees of the library.

Judges of appeals may use books. § 3. The judges of the court of appeals and the justices of the supreme court, shall be allowed to take books from the library under the same regulations as the members of the legislature.

[The remainder is omitted as temporary.]

[Supplementary Title.]

TITLE 8^A.*Of other Libraries belonging to the State.***L. 1849, Chap. 300 — An act concerning the library of the late court of chancery and the supreme court, and for locating and increasing the same.**

Library of the court of appeals. SECTION 1. The public library called the “chancellor’s library” shall continue to be a public library under the name of “the library of the court of appeals,” and the judges of that court shall, by an order entered in their minutes, direct the location of the same at some place west of the seat of government; and on suitable and convenient rooms and accommodations being provided in such place, the said judges shall direct the clerk of that court to remove the said library to that place. But before such removal the regents of the university may in their discretion take from said library, and deposit in the state library at Albany, books of which copies are not now in said state library.

Duplicate copies how to be disposed of. § 2. Such books in the said library as are duplicates or copies of other books therein, and such others as the said judges shall think proper, shall under the like direction be located at any other place west of the seat of government, which the said judges shall designate; and on suitable and convenient rooms and accommodations being provided, such books shall in like manner be removed to that place, and on being so removed those books and such others as shall be added thereto, shall constitute another public library, and shall be the property of the state.

Librarian to be appointed. § 3. The regents of the university shall appoint a suitable person to be librarian of the library of the court of appeals, and shall designate the compensation to be paid to him, and they shall also appoint a suitable person for librarian of any other library which may be established under the preceding section, and designate his compensation.

The law libraries of late supreme court, etc., how to be used. § 4. The three law libraries of the judges of the late supreme court, and the library of the late vice-chancellor of the second circuit, are hereby declared to be for the use of the four judges of the court of appeals elected by the people of the state at large, and their successors in office, and the clerk of that court shall cause to be made any removal of books necessary to carry this section into effect, and for the purpose of enlarging the library of the late vice-chancellor of the second circuit, and equalizing and enlarging the four libraries in this section mentioned, a portion of the interest fund upon moneys temporarily deposited in the office of the clerk in chancery for said second circuit not exceeding three thousand dollars may be applied under the direction of the said judges.

Clerk of the court of appeals to keep certain moneys invested. § 5. The clerk of the court of appeals shall keep invested in his name of office in such manner as that court shall direct, a certain fund accumulated by way of interest upon moneys temporarily deposited in the court of chancery known as the chancellor’s library

fund and interest fund, together with the residue of the interest fund from the second circuit mentioned in the preceding section; and the income of such fund for the year last passed and the future income thereof until otherwise provided by law may be expended under the direction of the judges of the court of appeals as follows: The expenses of carrying this act into effect shall be paid therefrom, and also the compensation of any librarian or librarians to be appointed under this act; a portion of said income not exceeding one-fourth part thereof, may be expended in enlarging and improving the four libraries for the use of the judges mentioned in the last preceding section, and the residue shall be expended in enlarging and improving the public libraries in the first two sections of this act mentioned. Nothing in this act contained shall bring a charge upon the treasury of the state.

Rules to be framed by regents. § 6. The regents of the university shall frame and establish suitable rules and regulations for the use of the books in the public libraries mentioned in this act, and shall add to and amend the same as shall be necessary.

L. 1850, Chap. 155 — An act to procure a law library for the office of the attorney-general.

\$1,500 appropriated. SECTION 1. The treasurer shall pay, on the warrant of the comptroller, to the attorney-general the sum of fifteen hundred dollars, to provide a law library for the office of the attorney-general of this state, and the said attorney-general shall prudently and carefully expend said money so appropriated, in the purchase of such law books as shall in his judgment be most useful in the said office, and which library, when so purchased, shall be known as the attorney-general's library, and shall forever thereafter be kept in his office.

Catalogue to be filed with secretary of state. § 2. The attorney-general shall, immediately after completing the purchase of said library, file in the office of the secretary of state a true catalogue of the books so purchased by him, stating therein the name or title of each book so purchased, and the price paid for the same; and shall annually thereafter, on the last Monday of December in each year, file in the office of the said secretary a true catalogue of the law books in his office, belonging to the state, and constituting the attorney-general's library.

L. 1859, Chap. 230 — An act to establish and preserve a law library in the sixth judicial district, to be called "the supreme court library."

Library established. SECTION 1. There shall be a law library, which shall be called "the supreme court library," and it shall be located at Binghamton, in the county of Broome.

State treasurer to purchase and forward books. § 2. The state treasurer shall purchase law books for said supreme court library, not exceeding five thousand dollars in value; which books shall be designated by a writing, to be signed by at least three of the justices of the supreme court, residing in the sixth judicial district; and said treasurer shall forward the books so purchased by him, to the clerk of Broome county, at Binghamton, at the expense of the state.

[Section 3 temporary.]

Books to be forwarded within one month after receiving writing designating same. § 4. The treasurer shall purchase and forward said books, as aforesaid, within one month after he shall receive the writing, designating the books to be purchased by him, signed as mentioned in section three of this act; and he shall purchase said books at the lowest price for which they shall be offered to him, due regard being had to their quality.

Clerk of Broome county to take care of same. § 5. The clerk of Broome county shall take care of said supreme court library, and shall keep the same in the court-

house at Binghamton; subject, however, to such orders, rules and regulations as may be made touching the same, by a majority of the justices of the supreme court, residing in the said sixth district.

[Abrogated by L. 1872, ch. 392.]

Clerk to be paid for services. § 6. The clerk shall be paid by the county of Broome all necessary expenses he may incur in taking proper and suitable care of said library, and also such compensation for his services as shall be fixed by the board of supervisors of said county.

[The same.]

Access to library. § 7. The judges of the court of appeals, the justices of the supreme court, county judges, surrogates, district attorneys, sheriffs, attorneys at law, justices of the peace, all public officers, and all other persons shall, at all reasonable hours, have access to said library, and may read and examine the books therein, so long as they shall conduct themselves in an orderly, proper and respectful manner; and when they fail to do that, said clerk may eject or exclude them from the room or rooms in which said library shall be kept.

Injury or destruction of books a misdemeanor. § 8. Whoever shall intentionally injure or destroy, or convert to his own use, any book belonging to said library, shall be guilty of a misdemeanor and may be indicted and punished therefor.

Room to be provided. § 9. The board of supervisors of Broome county shall provide a suitable room or rooms, and suitable cases in the court-house at Binghamton, for said supreme court library; and said court may have said library insured for the benefit of said library.

Books not to be taken from court-house without permission. § 10. Whoever shall take any book belonging to said library, out of the court-house, without permission from the clerk of Broome county, or from one of the justices of the supreme court, shall be liable to be sued therefor, by and in the name of said clerk; and in such suit the clerk shall recover treble the value of the book or books so taken, with costs, for the benefit of said library.

Clerk to make catalogue. § 11. The said clerk shall make a catalogue of the books in said library, in the month of October of each year, and deliver the same to the board of supervisors of Broome county, at the first meeting of such board thereafter; in which catalogue shall be stated, the books purchased or lost, or stolen, or taken away, or out of the library, or injured since the making of the last previous catalogue.

L. 1860, Chap. 402 — An act in relation to the "supreme court library."

To be supplied with law books to the same extent as court of appeals library. SECTION 1. The supreme court library, located at Binghamton, shall hereafter be supplied with law books to the same extent that the library of the court of appeals is supplied with law books, and the expense thereof shall be defrayed in like manner.

Reports to be supplied. § 2. Said supreme court library shall be supplied with the reports of all the decisions of the various courts in the United States (excepting those of Massachusetts and New York), not heretofore agreed to be furnished by Banks and Brothers, by their contract made with the late state treasurer, pursuant to the act of eighteen hundred and fifty-nine; and said books shall be paid for in the same manner that books are paid for which are furnished to the said library of the court of appeals.

Other books. § 3. Said supreme court library shall be supplied with all the books designated therefor in eighteen hundred and fifty-nine, by the justices of the supreme court of the sixth judicial district, which Banks and Brothers are not bound to furnish by their said contract; and said library shall also be supplied with such other law books as shall be necessary to complete said library, according to the original intention.

Books to be designated in writing. § 4. All books purchased pursuant to this act shall be designated in writing, signed by a majority of the justices of the supreme court of the sixth judicial district; and said justices, or one of them, shall purchase said books on the credit of the state, and the same shall be paid for as hereinbefore prescribed by this act.

L. 1863, Chap. 401 — An act to establish a law library for the eighth judicial district in the city of Buffalo.

Library established. SECTION 1. There shall be a law library located at the city of Buffalo, which shall be known as the law library of the eighth judicial district.

Trustees of law library; vacancies, how filled; appropriations, how disbursed; rules for management of library; penalties for violation and for injuries; rooms, furniture, etc.; annual county tax therefor; report to regents. § 2. The said library shall be under the care and management of Charles Daniels and Dennis Bowen, and the person succeeding to the office of judge of the superior court of Buffalo, in the place of Joseph G. Masten, deceased, and their successors in office, who shall be known as the trustees of the law library of the eighth judicial district. In case of a vacancy in said board of trustees it shall be filled at a general term of the supreme court of the fourth judicial department by the judges thereof, subject, however, to such orders, rules and regulations touching the same as may be made from time to time by a majority of the justices of the supreme court residing in said district. All appropriations made for said library shall be paid to the said trustees, to be by them disbursed in the purchase of books for said library. The said trustees may make rules and regulations for the management and protection of said library, and prescribe penalties for the violation thereof; and may sue for and recover such penalties, and may maintain actions for injuries to said library; they may procure proper furniture for said library, hire suitable rooms, employ a librarian, provide fuel and lights, and defray all the incidental expenses of the care and management of said library; they shall yearly ascertain the amount necessary for the aforesaid purposes and certify it to the board of supervisors of Erie county, who shall pay the same. They shall yearly make a report to the regents of the university of the state, of said library. [*Thus amended by L. 1871, ch. 747.*]

Librarians to report to trustees. § 3. The librarian or person in charge of the several libraries belonging to the state, except the state library at Albany, shall, without delay, report to the said trustees what duplicates of law books are in such library, and upon the request of such trustees shall deliver one of such duplicates to them for the use of the library hereby established, except such duplicates as may be kept for the exclusive use of the court of appeals or the members thereof. The trustees of the state library are hereby authorized to place in the library hereby founded any duplicates of books in their possession which they may deem proper.

[Section 4 repealed by L. 1886, ch. 593.]

\$5,000 appropriated. § 5. The sum of five thousand dollars is hereby appropriated to the use of the said library, which sum the treasurer is hereby required to pay on the warrant of the comptroller.

[Section 6 temporary.]

L. 1863, Chap. 463 — An act to establish a law library for the second judicial district in the city of Brooklyn.

Library established. SECTION 1. There shall be a law library located at the city of Brooklyn, which shall be known as the "law library of the second judicial district."

Trustees; their power. § 2. The said library shall be under the care and management of the trustees of the law library of the city of Brooklyn; subject, however, to such orders, rules and regulations, touching the same, as may be made, from time to time, by a majority of the justices of the supreme court residing in said

district. All appropriations made for said library shall be paid to the said trustees, to be by them disbursed in the purchase of books for said library. The said trustees may make rules and regulations for the management and protection of said library, and prescribe penalties for the violation thereof; they may sue for and recover such penalties, and may maintain actions for injuries to said library; they may procure proper furniture for said library, hire suitable rooms, employ a librarian, provide fuel and lights, and defray all the incidental expenses of the care and management of said library; they shall yearly ascertain the amount necessary for the aforesaid purposes, and certify it to the board of supervisors of Kings county, who shall pay the same. They shall yearly make a report to the regents of the university, of the state library, the additions made to said library during the preceding year.

Injuring books, etc. § 3. Any person who shall wilfully injure any of the books, furniture or property of said library, shall be guilty of a misdemeanor.

[Section 4 temporary.]

L. 1865, Chap. 722 — An act to establish a law library in the city of New York.

Library created. SECTION 1. There shall be a law library located in the city of New York, which shall be known as the New York law library.

How governed. § 2. The said library shall be under the care and management of the justices of the supreme court of the first judicial district, who shall be the trustees thereof. All appropriations made for said library shall be paid to said trustees, to be by them disbursed in the purchase of books for said library. The said trustees may make rules and regulations for the management and protection of said library, and prescribe penalties for the violation thereof; they may sue for and recover such penalties, and may maintain actions for injuries to said library; they may procure proper furniture for said library, hire suitable rooms, employ a librarian, provide fuel and lights, and defray all the incidental expenses of the care and management of the said library; they shall yearly ascertain the amount necessary for the aforesaid purposes, and certify it to the board of supervisors of New York county, who shall pay the same.

Duplicates from state library. § 3. The trustees of the state library are hereby authorized to place in the library hereby founded any duplicate of books in their possession which they may deem proper, and the clerk of the court of appeals is hereby required to send to said library one copy of the printed cases and points in all cases argued or submitted in said court.

[Section 4, repealed by L. 1886, ch. 598.]

Appropriation. § 5. The sum of five thousand dollars is hereby appropriated to the use of the said library, which sum the treasurer is hereby required to pay on the warrant of the comptroller.

L. 1866, Chap. 882 — An act to establish a law library in the fourth judicial district.

Location of library. SECTION 1. There shall be a law library for the fourth judicial district located at such place as a majority of the justices of said district shall appoint, which shall be known as the law library of the fourth judicial district: and until the majority of said justices shall otherwise determine, it shall be located in the city of Schenectady.

Justices ex-officio trustees; duties. § 2. The justices of the supreme court of the fourth judicial district for the time being shall be *ex-officio* trustees of the said law library, and the same shall be under the care and management of the said trustees; and it shall be the duty of the said justices, by a majority of their said number from time to time to make orders, rules and regulations touching the care, management, protection and due preservation of the said library, and prescribe penalties for the violation thereof, and may sue for and recover such penal-

ties for violation thereof, and may maintain actions for injuries to said library. They may procure proper furniture for said library, hire suitable rooms, appoint a suitable librarian, provide fuel and lights, and defray all incidental expenses of the care and management of said library.

Appropriations, to whom paid, etc.; report to trustees of state library. § 3. All appropriations made for said library shall be paid to said trustees, to be by them disbursed in the purchase of books for said library. The said trustees shall report annually to the trustees of the state library the catalogue of books in the said library, and the state and condition thereof. The trustees of the state library are hereby authorized to place in the library hereby founded, any duplicates of books in their possession not needed in the state library.

[Section 4, repealed by L. 1886, ch. 593.]

Amount appropriated. § 5. The sum of five thousand dollars is hereby appropriated to the use of the said library, which sum the treasurer is hereby required to pay on the warrant of the comptroller.

L. 1871, Chap. 718 — An act making appropriations for the support of government.

[The general appropriation act.]

(Part of section 1.)

Law libraries; appropriation, how expended; income of fund, how applied. To purchase, for the judges of the court of appeals, additional law libraries, which, with the law libraries now owned by the state for the judges thereof, shall be and remain the law libraries for them, and to furnish the book-cases therefor, twenty thousand dollars, or so much thereof as may be necessary therefor. The said sum shall be expended under the direction of the chief judges of the said court, and the order of the chief judge shall be a voucher therefor. And the income of the fund in the control and custody of the said court, heretofore used and applied to the replenishing of the law libraries of the said judges, shall continue to be applied to the replenishing of the said libraries, and those hereby provided for; said income to be expended under the like direction and order.

L. 1872, Chap. 392 — An act in relation to the supreme court library at Binghamton.

Librarian, how appointed. SECTION 1. The librarian of the supreme court library at Binghamton shall be appointed by a majority of the justices of the supreme court of the sixth judicial district, and shall hold his office during the pleasure of said justices.

Salary. § 2. The salary of said librarian shall be paid quarterly on the first days of January, April, July and October in each year, and the amount thereof shall be fixed in the month of October in each year for the following year, by a majority of said justices of the supreme court, but such salary shall not exceed three hundred dollars in any year, which shall be paid by the county of Broome. [Thus amended by L. 1881, ch. 281.]

Librarian subject to directions of justices. § 3. Said librarian shall be subject to the directions of said justices, and shall be governed by such rules and regulations as they shall make from time to time.

Contingent expenses to be paid by Broome county. § 4. The contingent expenses of said library, except for the purchase of books, shall be paid as heretofore by the county of Broome; which contingent expenses must be first certified to be correct by one of said justices or by the county judge of said county.

Clerk not to have any charge of library. § 5. The clerk of said county shall not hereafter have any charge, care or control of said library. But the librarian, to be appointed by virtue of this act, shall perform all acts and duties, in respect to said library, heretofore required of said clerk.

Repeal. § 6. All laws inconsistent with this act are hereby repealed, and this act shall take effect immediately.

L. 1883, Chap. 270 — An act in relation to the use of books belonging to the sixth judicial district library, by the justices of the supreme court of such district, and the expenses of transporting the same.

Books to be sent to justices of the supreme court. SECTION 1. The librarian of the sixth judicial district library shall, upon the written request of any justice of the supreme court of such district, send to said justice any of the books contained in said library, and pay the charges for sending and returning the same. The sum so paid by him shall be repaid to him out of any moneys appropriated for the support or maintenance of said library, upon being duly certified by a majority of the justices of the supreme court of said district.

L. 1874, Chap. 323 — An act making appropriations for certain expenses of government, and supplying deficiencies in former appropriations.

[The "supply bill."]

(Part of section 1.)

State law library for the third judicial district. For the purpose of establishing a judicial district library for the third judicial district, to be located at Kingston, Ulster county, the sum of four thousand five hundred dollars, to be expended in the purchase of books under the direction and supervision of the justice of the supreme court residing in said city.

L. 1876, Chap. 193 — An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations.

[The annual "supply bill."]

(Part of section 1.)

Delhi law library. For the purpose of establishing a law library, to be located at Delhi, Delaware county, for the use of the supreme court, the sum of two thousand dollars, to be expended in the purchase of books, under the direction and supervision of the justice of the supreme court residing at that place; the warrant of the comptroller shall not, however, be issued for the above mentioned sum until an equal amount shall be raised either by private subscription or by resolution of the board of supervisors of Delaware county, for the same purpose; the certificate of said justice of the supreme court of the fact shall be evidence to the comptroller that the said sum has been raised.

Utica law library. For the purpose of establishing a law library to be located at Utica, Oneida county, for the use of the supreme court, the sum of two thousand dollars, to be expended in the purchase of books, under the direction and supervision of the justice of the supreme court residing in said city. The warrant of the comptroller shall not, however, be issued for the above mentioned sum, until an equal amount shall be raised, either by private subscription, or by resolution of the board of supervisors of Oneida county, for the same purpose. The certificate of said justice of the supreme court of the fact shall be evidence to the comptroller that the sum has been raised.

L. 1882, Chap. 51 — An act in relation to the supreme court library, located at Delhi.

Librarian to be appointed. SECTION 1. The justices of the supreme court of the sixth judicial district, or a majority of them, shall appoint a librarian for the supreme court library, located at Delhi, Delaware county, New York, which librarian shall hold his office during the pleasure of said justices.

The same. § 2. Such appointment shall be in writing and signed by a majority of said justices and filed in the office of the clerk of Delaware county.

Salary. § 3. The salary of such librarian shall be two hundred dollars per annum and shall be paid in quarterly payments of fifty dollars each on the

last day of each of the months of March, June, September and December of each year, by the county treasurer of the county of Delaware, from the funds in his hands as such treasurer.

Rules and regulations. § 4. Said librarian shall be subject to the directions of said justices, and shall be governed by such rules and regulations as they shall make from time to time.

L. 1876, Chap. 318 — An act to authorize the appointment of a librarian to take charge of the library of the third judicial district, and to provide for the insurance thereof.

Appointment of librarian; salary. SECTION 1. The justice of the supreme court residing in the city of Kingston is hereby authorized, from time to time, to appoint a librarian to take charge of the law library of the third judicial district, located at Kingston, and who shall be paid a salary of six hundred dollars per year, the amount to be payable upon the certificate of said justice, out of the moneys raised in the county of Ulster for court expenses by the treasurer thereof, upon the presentation of such certificate.

Insuring library. § 2. It shall also be the duty of said justice, so residing at Kingston, to effect an insurance upon said library, the cost whereof shall be paid in like manner by the comptroller of the state of New York, upon a like certificate. Such insurance to be made in the name of the people of the state of New York, and in case of loss the amount thereof shall be expended in the purchase of new books for said library, in the same manner that the original appropriations were used for that purpose.

L. 1877, Chap. 94 — An act to authorize the appointment of a librarian to take charge of the law library in the fifth judicial district, located at Utica.

Appointment; salary. SECTION 1. The justice of the supreme court, residing in the city of Utica, is hereby authorized, from time to time, to appoint a librarian to take charge of the law library in the fifth judicial district, located at the city of Utica, and who shall be paid a salary not exceeding six hundred dollars per year, the amount to be payable upon the certificate of said justice, out of the moneys raised in the county of Oneida for court expenses, by the treasurer thereof, upon the presentation of such certificate. [*Thus amended by L. 1887, ch. 14.*]

L. 1880, Chap. 400 — An act making appropriations for the several judicial district libraries.

[This appropriation act contains an enumeration of the various judicial district law libraries, some of which are not provided for in any of the foregoing statutes.]

Appropriations. SECTION 1. There is hereby appropriated, and the treasurer shall pay on the warrant of the comptroller from any moneys in the treasury not otherwise appropriated, the several amounts, or such parts thereof as shall be sufficient to accomplish the purposes herein designated, to the persons and for the objects herein indicated, namely: For supplying deficiencies in various law libraries of the state, for paying arrears of purchases, and for additional purchases thereof, as follows: For the public law library known as "the library of the court of appeals," at the city of Rochester, one thousand five hundred dollars, to be paid on bills therefor certified by a justice of the supreme court resident at or nearest to the location of the said library; for the law library formerly in the possession of Judge Hunt, two thousand dollars, to be paid on bills therefor certified by the judge having such library in charge, and on checks or drafts of the chief judge of said court; and for the several district law libraries of the state, to be paid on bills therefor certified by the justices of the supreme court, or a majority of them, residing in the respective judicial districts, as follows: For the second judicial district library at Brooklyn, the sum of two thousand dollars; for the third judicial district

library at Kingston, fifteen hundred dollars; for the fourth judicial district library at Saratoga Springs, one thousand dollars; for the fifth judicial district library at Syracuse, one thousand dollars, and for the one at Utica, one thousand dollars; for the sixth judicial district library at Binghamton, one thousand nine hundred and four dollars, and for the one at Delhi, one thousand and ninety-six dollars and thirty-two cents; and for the eighth judicial district library at Buffalo, one thousand eight hundred and seventy-nine dollars and fifteen cents. [*Thus amended by L. 1881, ch. 234.*]

To whom paid. § 2. The said several sums above appropriated shall be paid in full to the parties above named, to be by them disbursed for the purchase only of law books for their said several libraries.

Annual appropriation. § 3. There is hereby appropriated and shall be paid annually by the state treasurer, upon the warrant of the comptroller, to each of said libraries, and to the New York library established by chapter seven hundred and twenty-two of the laws of eighteen hundred and sixty-five, through their said trustees or designated representatives mentioned in section one, and their successors, the sum of six hundred dollars or so much thereof as shall be necessary, to be by them disbursed for the purchase of current law books and continuation of current law reports, in the maintenance of their said libraries, and for binding or re-binding the books and cases belonging to their said libraries, when necessary for their proper preservation. [*Thus amended by L. 1888, ch. 444, superseding L. 1883, ch. 275.*]

[Supplementary Title.]

TITLE 8^a.

Of the State Museums and Cabinets.

L. 1840, Chap. 245 — An act in relation to the old state hall.

Grant of old state hall to be obtained. SECTION 1. The commissioners of the land-office are authorized to receive such further grant or extension of the conveyance from the corporation of the city of Albany, of the old state hall and lot on which it stands, with such modifications and on such terms and conditions as the said commissioners may deem beneficial to the interest of the state.

Id. § 2. When the above named grant shall be obtained the trustees of the new state hall are authorized and required to fit up and prepare rooms in the old state hall, as soon as the same shall be vacated, in such manner as they may deem proper, for a state museum, in which to arrange and display the various specimens, maps, figures and illustrations, which may be collected and prepared by the geological corps in the survey of the state.

L. 1845, Chap. 179 — An act to provide for the safe keeping of the cabinets of natural history, and for other purposes.

Person to have charge of cabinets to be appointed. SECTION 1. The regents of the university are hereby authorized and directed to make suitable provision for the safe keeping of the cabinets of natural history now deposited in the old state hall, and to employ a person to take charge of the same, at an expense not to exceed the sum of two hundred and fifty dollars per annum, to be paid out of the treasury on the warrant of the comptroller.

Committee of agricultural society to have use of cabinets. § 2. The executive committee of the New York State Agricultural Society may have the free use of said cabinets of natural history, and all the specimens therein deposited, at any and

all times, for such purpose as such committee shall desire, subject to the direction and regulations of the regents of the university; provided that such committee shall not remove said cabinets, or any of the specimens therein deposited, from the rooms in which they shall be deposited by the regents of the university.

[Section 3 repeals an act exempting certain of the regents of the university from attendance; it will be found in the statutes appended to chapter 15, title 1, article 1 of this part of the Revised Statutes.]

Act may be repealed. § 4. This act may be at any time hereafter altered, modified or repealed by the legislature.

L. 1870, Chap. 557 — An act in relation to the state cabinet of natural history.

Museum established. SECTION 1. The state cabinet of natural history is hereby established as a museum of scientific and practical geology and general natural history, at the capital of the state, under the care and custody of the regents of the university, to be known hereafter as "the New York state museum of natural history."

Organization of museum. § 2. The museum shall be organized in accordance with the plan recommended to the legislature by the board of regents in their report of eighteen hundred and sixty-six, and the present curator shall act as director of the museum, and shall supervise and direct all its scientific and practical operations, and he shall appoint such assistants or curators of departments as may be required for the accomplishment of said plan, with the concurrence of the chancellor of the board of regents, or the committee of the same having charge of the museum.

Course of lectures. § 3. It shall be the duty of the director of the museum and the chancellor of the board of regents to organize a plan and make the necessary arrangements to establish an annual course of free scientific lectures in connection with the museum, as soon as practicable, and within two years from the passage of this act.

Salaries and expenses. § 4. For the salary of the director, as established in the appropriation bill of eighteen hundred and seventy, for three assistants as now employed by him, and for the increase and preservation of the collection, the sum of ten thousand dollars annually shall be and is hereby appropriated, and all expenditures for compensation of assistants, or for the increase and preservation of the collections, shall be made by the director, with the approval of the chancellor of the board of regents.

Botanical department. § 5. The botanical department as now organized shall be continued, as originally contemplated, for three years from the end of the present year.

L. 1871, Chap. 711 — An act to amend an act entitled "An act in relation to the state cabinet of natural history," passed May second, eighteen hundred and seventy.

Assistants and curators, how appointed. SECTION 1. The assistants and curators of departments provided for by the second section of the act entitled "An act in relation to the state cabinet of natural history," passed May second, eighteen hundred and seventy, shall be appointed by the director of the state museum of natural history, with the concurrence of the board of regents of the university.

Course of lectures, how organized. § 2. The annual course of free scientific lectures authorized by the third section of said act shall be organized under the direction of the board of regents and the director of the state museum.

Moneys appropriated, how expended. § 3. The moneys appropriated by the fourth section of the act above named shall be expended by the director of the state museum of natural history, with the approval of the board of regents of the university.

L. 1872, Chap. 733 — An act making appropriations for certain expenses of government and for supplying deficiencies in former appropriations.

[The "supply bill."]

(Part of section 1.)

Lectures may be discontinued. The course of lectures required by chapter five hundred and fifty-seven, laws of eighteen hundred and seventy, and chapter seven hundred and eleven, laws of eighteen hundred and seventy-one, may be discontinued in the discretion of the regents of the university; and the resolution of the legislature of eighteen hundred and sixty-nine, requiring the opening and lighting of the rooms of the state cabinet of natural history, is hereby rescinded.

L. 1873, Chap. 643 — An act to provide for the support of government and for other purposes.

[The general appropriation act.]

(Extract from section 1.)

Superintendence, etc. For superintendence, repairs, cleaning, labor, gas, fuel and other necessary expenses, including the compensation of the keeper of the hall for the state cabinet of natural history, four thousand five hundred dollars, and from and after the first day of October, eighteen hundred and seventy-three, the hall for the museum shall be placed in the joint care and control of the regents of the university and the executive committee of the State Agricultural Society; and all bills and charges shall be audited and paid only on the certificate of the secretary of the board of regents and the secretary of the State Agricultural Society.

L. 1883, Chap. 355 — An act to regulate the state museum of natural history and the publication of the palæontology of the state.

Trustees of state museum authorized to occupy rooms in state hall. SECTION 1. For the purpose of providing sufficient and fire-proof accommodations for the collections of natural history belonging to the state, the regents of the university, as trustees of the state museum of natural history, are hereby directed, in pursuance of the concurrent resolution of legislature, passed on the twenty-fourth day of March, eighteen hundred and eighty-one, to occupy for the purposes of said museum the several rooms of the state hall as they may be vacated by their present occupants, and said trustees are hereby directed to fit up and prepare said rooms in a suitable manner, and to remove thither and arrange in order for exhibition, as soon as may be, the collections of said museum. Said trustees shall also make provision for and remove to said state hall, to be a part of said museum, all the fossils, minerals and other property of the state now in the charge of the state geologist, in pursuance of the provisions of chapter two hundred and seventy of the laws of eighteen hundred and eighty-two; and the sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the expenses of fitting up and removal as provided in this section, to be paid on vouchers approved by said trustees.

Scientific staff. § 2. The scientific staff of the museum, to be appointed by said trustees, shall consist of a director, who may also be state geologist, and whose compensation shall be the same as now fixed by law, and of three assistants, together with such special assistants as may be necessary, whose compensation shall be fixed from time to time by said trustees, together with the state geologist and state entomologist and botanist as these officers are now defined and provided for by law; and all the collections made by the members of said staff during their terms of service shall belong to, and form a part of the collections of the museum; and the trustees of said museum shall be authorized to publish each year the

scientific contributions of said staff and such other original scientific contributions as they may deem expedient, which publication shall be in lieu of the reports now required by law from the state geologist and state entomologist, and of the scientific papers communicated each year to the legislature, along with the annexed report of said trustees; and it shall be the duty of said trustees to distribute from the duplicate specimens of the museum to institutions of learning such collections as may be available and suitable for that purpose, as directed by a concurrent resolution of the legislature, passed on the fourteenth day of March, eighteen hundred and eighty-one, and to provide facilities in the museum for the study of its collections, and by means of printed hand-books describing said collections, and in such other ways as may be practicable, to make said museum a means of instruction to the citizens of the state. In order to provide for the expense of printing the aforesaid scientific publications, and in order to increase the usefulness and efficiency of said museum, as aforesaid, the annual appropriation to be made for its maintenance shall be fifteen thousand dollars, to be paid on vouchers approved by said trustees.

Publication of the palæontology. § 3. The trustees of the state museum of natural history are hereby appointed to supervise the completion of the publication of the palæontology of the state, to contract for the preparation and printing thereof, and to audit and certify to the expenditures therefor; and it is hereby provided that one volume of said palæontology shall be published within one year from the execution of the contract for its preparation, that a second volume shall be published within two years, and that the entire work shall not extend beyond five bound volumes in addition to those already issued, all of which shall be published within five years from the passage of this act, and shall comprise the following subjects, that is to say the Lamellibranchiata (bi-valve shells) to be bound in two volumes, the Bryozoans (fossil corals) to be bound in one volume, the Brachiopodia (lamp shells) to be bound in one volume, and the Crustacea, et cetera (crabs, etc.), to be bound in one volume; and the sum of fifteen thousand dollars shall be appropriated annually for five years for the purposes of this section, payable on vouchers certified by said trustees; which sum of fifteen thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated, for the purpose of said publication for the current year.

Disposition and sale of volumes of the natural history. § 4. The volumes of the natural history hereafter to be published and the copies still remaining of the volumes already published shall be in the charge of the trustees of said museum, who shall distribute and sell the same in accordance with the provisions of law now in force for such distribution and sale, and the proceeds of such sale said trustees shall use for the purpose of forming a suitable library for said museum, and they shall have authority to make exchanges with such portion of the volumes of said work as are not required for distribution or sale and to receive donations and deposits of books and specimens on such terms as they shall deem advantageous for said museum.

L. 1886, Chap. 413—An act making appropriations for the support of government.

[The general appropriation act.]

Extract from § 1. It shall be the duty of the said state geologist to communicate to the legislature, on or before the first day of March of each and every year, a report upon the condition of any work for the state upon which he may be engaged, and also the names and salary of persons engaged in making drawings for the natural history of the state.

[A similar provision is contained in the general appropriation acts of several preceding years.]

TITLE IX.

ART. I.*Of the Canals.*

ART. 1.—Designation and description of the canals.

[Supplement to Article 1.

ART. 1^A.—Of the sale or other disposition of certain lateral canals, and other rights and property connected therewith.]

ART. 2.—Of the canal commissioners, and their general powers and duties.

[Supplement to Article 2.

ART. 2^A.—Of the superintendent and assistant superintendents of public works; of the state engineer and surveyor; of the division and resident engineers; and their powers and duties.]

ART. 3.—Of the appraisement of damages.

ART. 4.—Of the canal board, their powers and duties.

ART. 5.—Of water privileges, and the sale of surplus waters.

ART. 6.—Of the superintendents of repairs, and the collectors of tolls.

ART. 7.—Regulations and penalties concerning the navigation of the canals, and the collection of tolls.

[Supplement to Article 7.

ART. 7^A.—Of steam and other mechanical towage.]

ART. 8.—Regulations and penalties concerning the protection and maintenance of the canals.

ART. 9.—Miscellaneous provisions of a general nature.

ARTICLE FIRST.

DESIGNATION AND DESCRIPTION OF THE CANALS

SEC. 1. Names of the canals.

2. The Erie and Champlain canals declared to be completed, and subject to the provisions of this title.
3. Canal board to declare when other canals completed; powers of commissioners then to cease.
- 4 & 5. Map of canals to be made; to be compiled by commissioners, and filed in comptroller's office.
6. Comptroller to send copy to every county intersected by canal, to be filed in clerk's office.
7. A transcript from original, or certified copy of map, presumptive evidence.
8. Provisions of this title to apply to all state canals.

SECTION I. The navigable communications heretofore constructed, and now in the progress of construction, by the state, shall be known and designated as follows:

1. The navigable communication connecting the waters of Lake Erie with those of the Hudson river, and all the side cuts, feeders and other works belonging to the state connected therewith, by the name of the "Erie canal."

[1 R. L., 247; act of June 19th, 1812, in Session Laws of 1812; L. 1814, p. 256, § 43; L. 1816, p. 295; L. 1817, pp. 301, 315, § 12; L. 1818, p. 17; L. 1819, pp. 121, 123; L. 1820, pp. 99, 171, 183, 225; L. 1821, p. 25; L. 1822, pp. 306, 320, §§ 4, 5, 6; L. 1823, pp. 116, 269; L. 1824, pp. 315, 342; L. 1825, pp. 393, 414; L. 1826, p. 360; L. 1827, p. 220.]

2. That connecting the waters of Lake Champlain with those of the Hudson, and the works belonging thereto, by the name of the "Champlain canal."

Names
of canals.

[The same.]

3. That commencing at Geneva, and terminating near Montezuma, and connecting the waters of the Seneca lake with the Erie canal,

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TITLE 9. and the works belonging thereto by the name of the "Cayuga and Seneca Canals."

[L. 1813, ch. 144; L. 1814, 146; L. 1817, 83; L. 1825, 391; L. 1827, 223, § 12.]

4. That commencing at Syracuse, and terminating at Oswego, by the name of the "Oswego Canal."*

[L. 1827, 223, § 12. See L. 1829, ch. 120; ch. 135; L. 1833, ch. 32; L. 1836, ch. 157; ch. 257.]

Certain
canals
completed.

§ 2. The Erie and Champlain canals are hereby declared to be completed, and all the powers and authority heretofore given by law to the canal commissioners, in relation to the construction of those canals, shall be deemed to have been executed.

Comple-
tion of
others,
how de-
clared.

§ 3. Whenever any canal now in process of construction, or that shall hereafter be constructed, shall be completed, the canal board shall, by an order, declare the fact of such completion, and from that time, all the powers and authority of the canal commissioners, in relation to the construction of such canal, shall cease.

Map, &c.,
of canals.
11 N. Y.,
313; 15
Barb., 641;
31 N. Y.,
151-155; 81
N. Y., 31;
16 Abb.,
N. C., 179,
note.

§ 4. A complete manuscript map and field notes, of every canal that now is or hereafter shall be completed, and of all the lands belonging to the state adjacent thereto or connected therewith, shall be made, on which the boundaries of every parcel of such lands, to which the state shall have a separate title, shall be designated, and the names of the former owners and the date of each title be entered. The expense thereof shall be paid out of the canal fund. If the canal commissioners, on examination of the premises, be satisfied that the cost and expense of making such map, field notes

*The following list of the canals, constructed since the R. S., completes the enumeration of the canals of the state, as they existed at the time of the first sale of the lateral canals. See L. 1877, ch. 404, *post*, p. 697.

Crooked lake. 5. That from Crooked lake, down the outlet thereof, to Seneca lake, by the name of the "Crooked Lake canal."

L. 1829, ch. 120.

Chemung. 6. That from the head waters of Seneca lake to the Chemung river, (a branch of the Susquehanna), at the village of Elmira, and also a navigable feeder from the summit level to the Chimney narrows on the Chemung river, in the town of Painted Post, by the name of the "Chemung canal."

L. 1829, ch. 135.

Chenango. 7. That from Binghamton, in the county of Broome, up the valley of the Chenango river to its head waters, and then up the most advantageous route to the Erie canal, by the name of the "Chenango canal."

L. 1833, ch. 32.

Black river. 8. That from the foot of the high falls, in the Black river, in the county of Lewis, to the Erie canal at Rome, and a navigable feeder from the Black river to the summit level near the village of Boonville, by the name of "The Black River canal and Erie canal feeder."

L. 1836, ch. 157.

Genesee valley. 9. That from the Erie canal, in the city of Rochester, through the valley of the Genesee river, to a point at or near Mount Morris, and thence to the Allegany river at or near Olean, and a branch commencing at or near Mount Morris, and extending up the valley of the Canaseraga creek, at or near the village of Dansville, by the name of the "Genesee Valley canal."

L. 1836, ch. 257.

and survey, will exceed the sum of five thousand dollars, no such map and field notes shall be compiled. ART. 1.

§ 5. Every such map shall be compiled by the canal commissioners, who shall, for that purpose, cause all necessary surveys to be made; when prepared, it shall be submitted to the canal board for its approbation; and when so approved, shall be signed by the canal commissioners, be certified by them as correct, and be filed in the office of the comptroller. Where filed.

§ 6. A copy of each map so filed, together with the field books and notes of such survey, or of such part thereof as the canal board shall direct, shall be transmitted by the comptroller to every county intersected by the canal to which the map shall relate, and shall be filed, in the clerk's office of such county. Ib.

§ 7. A transcript from the original map, or from a copy thereof, certified as correct, by the officer with whom such map or copy shall be filed, shall be received as presumptive evidence, in all judicial and legal proceedings. Copy to be evidence.
11 N. Y., 818; 15 Barb., 641; 31 N. Y., 161-166; 81 N. Y., 21.
[219] Application of this title.

§ 8. The provisions of this title shall be construed to apply to every canal belonging to the state, of which the construction now is or hereafter shall be authorised by law.

L. 1857, Chap. 267 — An act in relation to abandoned canals. ¹

Sale of right and title; rules and regulations. SECTION 1. Whenever the canal board shall by resolution determine that any lands taken for the purposes of the canals of this state have been abandoned, and that the title of the state to said lands was acquired by purchase from the owner or owners, it shall and may be lawful for the commissioners of the land office to sell, grant and convey the right, title and interest of the state in such lands, and credit the proceeds of such sale to the fund appropriated for the construction of the canal enlargement, improvement and repairs of the same; and in case it shall appear that the title of the state to said lands was acquired by grant or otherwise from the owner or owners, and without the payment of any sum or sums whatever by the state for such lands, it shall and may be lawful for the commissioners of the land office to release all the right, title and interest of the state in and to such lands to the persons so granting the said lands to the state, or from whom the title was acquired by the state, to his or their heirs, grantees or assigns, upon and subject to such rules, regulations and requirements as may be deemed for the interest of the state; provided that where any of such lands shall, at the time of such abandonment, be used as or for a hydraulic canal, the conveyance shall not in any respect prevent the future use of the land for the same purpose, but shall expressly reserve the right to continue such hydraulic canal.

Original owners to have preference. § 2. The original owner or owners of said abandoned canals, their heirs or assigns, who may be the owners of the lands adjoining thereto, shall have the preference for one year subsequent to the passage of said resolution by the canal board, to purchase the same by payment to the commissioners of the land-office of the amount originally paid by the state for said lands.

L. 1869, Chap. 361 — An act to define and amend "An act in relation to abandoned canals," passed April sixth, eighteen hundred and fifty-seven, being chapter two hundred and sixty-seven of said laws.

Act of 1857 extended; proviso as to payment, for lands. SECTION 1. The act entitled "An act in relation to abandoned canals," passed April sixth, eighteen hundred

¹ See also L. 1863, ch. 470, § 4, *ante*, p. 621.

and fifty-seven, being chapter two hundred and sixty-seven of said laws, shall apply, and is hereby declared to extend to cases in which the land at the time taken for canal purposes was owned by the state, but with the adjoining lands were subsequently conveyed by the state without any express reservation of the portion covered by the canal, so that under the said law the grantees of the state, their heirs and assigns, shall stand in the same position with respect to abandoned canals, as the like representatives of individuals hold and enjoy, provided they shall pay therefor such sum or sums as the commissioners of the land-office shall deem just and equitable.

Act not to apply to lands heretofore conveyed, nor to dry docks at Oswego. § 2. Nothing herein contained shall be considered as applying to any abandoned canals heretofore sold and conveyed by the state; nor to any dry docks built by permission of the state within the canal blue lines in the city of Oswego.

L. 1863, Chap. 115 — An act to provide for the extension of the Chenango canal from its present termination at or near the village of Binghamton, to the North Branch canal, at the state line.

Canal extended to state line. SECTION 1. The canal commissioners shall, from time to time, as funds shall be appropriated, extend the Chenango canal from its present termination at or near the village of Binghamton, down the Susquehanna valley, by the most advantageous route, to the state line near Athens, Pennsylvania, so as to connect the same with the North Branch canal of Pennsylvania; said extension shall be let by contract, at the lowest price, with adequate security for its performance, public notice being first given of the lettings, according to the provisions of law.

Size of the extension. § 2. Said extension shall be of the same width and depth and size of structures as the Chenango canal, except so far as improvement in permanency, or otherwise, may be obtained, without increasing the expense and without interfering with the usefulness and permanency of the work.

Condition to be performed. § 3. But no expenditure shall be made nor allowed under this act, until the state of Pennsylvania, or a company of reliable responsibility, incorporated under its laws, shall satisfy the canal board of this state that ample and certain provisions have been made to complete a navigable canal from the said state line down to and form a connection with the North Branch canal, at or near the village of Athens, in said state of Pennsylvania.

L. 1863, Chap. 165 — An act to authorize the improvement of the Chemung canal feeder at the village of Corning.

To make a navigable channel. SECTION 1. The canal commissioners are hereby authorized and required to make and construct a channel or slip and basin, connecting with said feeder, on the south side of the Chemung river, in the village of Corning, of sufficient capacity for navigation, together with such docking, excavation and improvement as such commissioners may deem proper for the interests of the state, in accordance with the plans proposed in the reports of said commissioners in the years eighteen hundred and sixty-one and eighteen hundred and sixty-two, and the report of the canal board transmitted to the senate the fifth day of March, eighteen hundred and sixty-three, or upon such other plan as said commissioners may adopt.

Treasurer to pay expense. § 2. The treasurer shall pay, on the warrant of the auditor of the canal department, the expense of the construction and improvement authorized by this act out of any moneys appropriated for extraordinary repairs and improvements upon the middle division of the canals, not exceeding the sum of twenty thousand dollars.

Proviso. § 3. The improvements referred to in this act shall not be made unless the lands and real property necessary to the making of such improvements be ceded to the state, without expense.

L. 1863, Chap. 342 — An act to raise the head of the feeders and of Oil Creek reservoir on the Genesee Valley canal.

Waters to be raised. SECTION 1. The canal commissioners are hereby authorized to raise the water in Oil Creek reservoir, three feet, and define the boundaries of lands for the same at an elevation of six feet above the bottom of the outlet heretofore in use; also to construct a dam across the Ischua creek, at Ischua feeder, at such elevation as may be determined by the canal board. Said commissioners are further authorized to raise and maintain the dams at an elevation of five feet above bottom of canal across the streams that supply with water that part of the canal designated as the extension of the Genesee Valley canal; said commissioners are further authorized to take possession of all lands necessary to carry this act into effect.

Expense. § 2. The cost for the construction of the works necessary to carry this act into effect, to be paid out of moneys appropriated for extraordinary repairs and improvement of the canals.

Monuments. § 3. The canal commissioners are further authorized and required to place fixed and permanent monuments of stone near each dam and of the outlet, for the purpose of determining at any future time the height to which the works mentioned in this act are to be maintained, and furnish with their next annual report, maps and references designating said monuments.

L. 1867, Chap. 752 — An act in relation to the navigation of the Cayuga and Seneca canal.

Alteration of state dam authorized. SECTION 1. The canal commissioners are hereby authorized to raise the state dam at Waterloo to, and maintain the same at a height not exceeding the height of the original state dam at that place, but so as not to raise the waters of Seneca lake above the natural height of the waters of said lake. And they are also authorized, when the bridge across the outlet of Seneca lake is rebuilt, to lower the same to a height no more than sufficient to pass the largest size canal boats.

Expense, how paid. § 2. The expense of raising the said dam, not exceeding one thousand dollars, shall be paid out of any funds appropriated for extraordinary repairs of the middle division of the canals.

Claims for damages. § 3. No claim shall be made or entertained for any damages to land or property, by reason of restoring the said dam to its original height, by the provisions of this act.

L. 1867, Chap. 934 — An act to secure the navigation of the Oneida Lake canal, and to provide for the payment of the expenses thereof.

Rebuilding, etc., locks on canal; in what case there may be removal of location. SECTION 1. The canal contracting board are hereby required and directed to open the navigation of the Oneida Lake canal, by rebuilding and enlarging the locks on the same, and also enlarging the prism of said canal. It is, however, expressly provided that if in the opinion of the said board, it shall be inexpedient to so open the old line of said canal by reason of quicksand underlying the same, or from any other cause, it shall then be lawful for said board to remove the location of

said canal, in whole or in part, to such point as shall in their judgment, be for the best interests of the state, and to secure permanent navigation; provided, however, that such change of location or new line shall not exceed in length the present line, or render an increased number of locks necessary.

[Sections 2, 3 and 5 omitted as temporary; section 4, relating to tolls, omitted as obsolete.]

Oneida creek feeder. § 6. A change of the location of said canal, in whole or in part, shall not be deemed or considered as a release or abandonment by the state of the ownership of the Oneida creek feeder, but said feeder shall be maintained, and all the waters thereof taken into the Erie canal.

[Sections 7 and 8 omitted as temporary.]

L. 1884, Chap. 508 — An act authorizing the opening of a channel or canal between the waters of Shinnecock bay and those of Peconic bay, in the county of Suffolk.

Superintendent authorized to construct canal. SECTION 1. The superintendent of public works is hereby authorized and directed to open, dig and construct a channel or canal between the waters of Shinnecock and Peconic bays, at Canoe place, in the town of Southampton, county of Suffolk.

Entry upon lands, etc. § 2. Said superintendent shall have power and authority to enter upon all and singular the land or lands necessary for making, digging and perfecting the said channel or canal and devices pertaining thereto, and to enter into agreements or contracts for the purchase of such land if such agreement can be made and the said land purchased at a fair value.

Title, how to be acquired in case of disagreement. § 3. And in case of disagreement, or in case the owner thereof shall be an infant or lunatic or non-resident of the state, then it shall and may be lawful for said superintendent to cause a survey and map to be made by the state engineer and surveyor of such portion of the land as in his judgment is actually necessary for the public use. Said map and survey shall be filed in the office of the clerk of the county of Suffolk, and thereupon the title to such land shall vest in the state.

Compensation. § 4. The owner of any land so taken shall be entitled to compensation in damages, to be ascertained and appraised as prescribed by law.

Notice to railroad company of intention to cut through same. § 5. If it shall be necessary for said superintendent to occupy the lands of any railroad company for the purpose of said channel or canal, or to cut through or to intersect the same, he shall give at least ninety days' notice of such intention to said railroad company, and in case of disagreement as to the amount of compensation to be made therefor, the same shall be ascertained as prescribed by law.

Proposals to be advertised for, etc. § 6. After the said superintendent shall have entered upon said lands as aforesaid, he shall advertise for proposals for contracts for the construction and digging of said channel or canal, or parts thereof, in two newspapers published at the nearest place where said canal is located, and shall award such contract or contracts to the lowest bidder, if, in his judgment, it is for the best interest of the state, and if there are no bids or proposals he shall proceed as he may deem best.

\$12,000 appropriated. § 7. The sum of twelve thousand dollars, or as much thereof as may be necessary, is hereby appropriated out of any sums remaining in the treasury, not otherwise appropriated, to carry this act into effect, to be paid to the said superintendent by the treasurer, upon the warrant of the comptroller, in such sum or sums, and at such time or times, as may be necessary, in his judgment, for the carrying on of the work in said channel or canal.

Expense of maintenance to be a county charge. § 8. The said channel or canal shall be maintained at the expense of the county of Suffolk, and the property acquired in the construction thereof shall belong to the state.

State engineer, duty of. § 9. It shall be the duty of the state engineer and surveyor to assist and advise the superintendent in all matters connected with the construction of said channel or canal, whenever such advice and assistance may be necessary.

[Supplement to Article 1.]

ARTICLE 1^A.

OF THE SALE OR OTHER DISPOSITION OF CERTAIN LATERAL CANALS, AND OTHER RIGHTS AND PROPERTY CONNECTED THEREWITH.

L. 1875, Chap. 499 — An act to require the canal board to investigate, consider and report upon the disposition to be made of the lateral canals.

Canal commissioners and state engineer to examine certain canals; report. SECTION 1. It shall be the duty of the canal commissioners and the state engineer and surveyor to examine the Crooked Lake canal, the Chemung canal, the Genesee Valley canal, the Chenango canal and the Black River canal, and their appurtenances; to take such testimony in respect to the same as they shall deem necessary or expedient, to examine all surveys, maps, reports and documents relating to the same in the public offices, to ascertain whether any of the canals should be sold, leased or abandoned; whether any, or any portions of any, of them are necessary to be retained as feeders, and if so, in what condition and at what annual cost, and whether a sale, lease or abandonment will affect the legal rights of individuals, and if so, to what extent, and generally to report to the canal board on all matters incident to such disposal of the canals as may to them seem expedient; and it shall be the duty of the canal board to report the evidence taken and the facts ascertained to the legislature of eighteen hundred and seventy-six, and in the first week of the session thereof, together with their opinion as to the best disposition to be made of the said canals, the manner in which said disposition should be made, and what legislation will be necessary to carry into effect their recommendations, and the said canal commissioners and the state engineer and surveyor are hereby empowered to issue compulsory process for the attendance of witnesses and the production of papers, to administer oaths and to examine persons under oath in respect to such matters as they may deem necessary.

L. 1877, Chap. 404 — An act to provide for the disposition and sale of certain lateral canals of this state, and the lands, rights, and other property connected therewith.¹

Abandonment of lateral canals. SECTION 1. The following canals of this state shall, at and after the respective periods hereinafter specified, be abandoned and discontinued as canals, and be no longer subject to the control or authority of any of the canal boards or officers of this state, except as hereinafter specified.

Chenango canal; Chemung; Crooked lake; Genesee valley. § 2. All that portion of the Chenango canal commencing at and lying south of the stone culvert in the village of Hamilton, in the county of Madison, and what is called and known as the Chenango canal extension, and its appurtenances, shall be abandoned and discontinued on and after the first day of May, eighteen hundred and seventy-eight; but no reservoir, feeder or property belonging to the state now used for the purposes of said canal at a point northerly of said culvert shall be disposed of or sold; neither shall the Madison brook reservoir and feeder therefrom, the Kingsley brook reservoir and feeder therefrom, the Woodsman's pond and feeder therefrom, the Leland's ponds and feeders therefrom be sold or disposed of. Nor shall the waters of said reservoirs necessary to feed the Erie canal be permanently diverted from the channels hitherto used, but a supply of water for the uses of the state lunatic asylum at Utica, shall at all times be maintained by the canal authorities. The Chemung canal, at the close of navigation in eighteen hundred and seventy-eight. The Crooked Lake canal, on and after the passage of this act. The Genesee Valley canal, on and after the thirtieth day of September, eighteen hundred and seventy-eight.

Sale of lateral canals. § 3. It shall be the duty of the superintendent of public works, subject to the approval of the canal board, as soon as practicable after the

¹ Repealed as to part of the Chemung canal, by L. 1897, ch. 169, *post*, p. 701.

passage of this act, except as hereinafter provided, to advertise for sale and to sell the following property belonging to this state, namely: the Crooked Lake canal, its appurtenances, and the water privileges connected therewith, provided the hydraulic action and the natural flow of the outlet of said lake shall not be diverted or changed, any of the provisions of this bill to the contrary notwithstanding; also, as soon after January first, eighteen hundred and eighty, as the canal board shall deem the best interests of the state, to advertise for sale and to sell that portion of the Chenango canal as described in section two of this act, the Chemung canal and its feeders, branches and appurtenances and water privileges, after the close of navigation in the year eighteen hundred and seventy-eight; and as soon after January first, eighteen hundred and eighty, as the said board shall deem the best interests of the state, the Genesee Valley canal, its feeders, branches, appurtenances. When the Chemung canal shall cease to be used as such, the water-power, rights, and privileges on the Chemung river, so far as they were taken and appropriated for the purposes of the canal, shall revert to the person or persons from whom they were taken, or to their successors in interest, and in any sale of that canal, such rights shall be reserved; but no dam or any water privilege sold or conveyed by the state shall be of any greater height, or of less width of spillway than the same was originally built by the state. [*Thus amended by L. 1879, ch. 522.*]

How to be advertised; postponement of sale. § 4. It shall be the duty of the superintendent of public works to advertise any property, privileges or rights intended to be sold under this act, daily (except Sundays), for four weeks immediately prior to such sale, in the state paper at Albany, and in such other newspapers, if any, published on the line of the canals to be sold, not exceeding three in each county through or into which said canals run, as said superintendent of public works may select, and to give in such advertisement a full and detailed description of the property to be sold, and to state therein the time and place of sale. Any sale so advertised may be postponed not longer than one month, when, in the judgment of the superintendent of public works, for lack of bidders or other cause, such postponement will be advantageous to the state. But where an option is given to purchase at an appraised valuation, as hereinafter provided, no advertisement for such sale for an appraised amount shall be necessary. [*Thus amended by L. 1881, ch. 157.*]

Estimate and appraisal. § 5. It shall be the duty of said commissioners or superintendent, and the commissioners of the canal fund, to cause an estimate and appraisal to be made, by competent persons, of such portions of said canals as run through or near cities or villages, and of their inlets and outlets, as may be desired by such cities or villages, for hydraulic, hygienic or fire purposes, and also of such portions thereof as it may be deemed expedient or profitable to sell as water privileges.

When cities and villages to have option; certificate of sale; failure to pay; water privileges. § 6. Such cities and villages shall have the right and option, for one month after written notice of such appraisal from the superintendent of public works, of taking and purchasing such portions of said canals, with their inlets and outlets, as may be so appraised for such purpose, at the appraised value thereof, upon the payment of one-fourth of the purchase price at the time of sale, and the balance thereof in six equal annual payments, with interest at six per centum per annum, to be secured by the bonds of the cities or villages purchasing; and any city or village desiring to make such purchase is hereby authorized to borrow money and issue its bonds for that purpose. The certificate of the superintendent of public works shall be given for the sale, but no deed shall be given therefor until the final payment of all the principal and interest due thereon, and a failure to pay the interest, or any part thereof, when due, shall give the canal board the right to declare such sale null and void, and all moneys paid thereon shall in that event be forfeited to the state, and all rights in such lands, rights or privileges, shall revert to the state. The water privileges connected with such portions of the canals so to be appraised for sale to municipali-

ties shall be included in such appraisals, and shall be sold with such portions of the canals, so that the ownership and control thereof may be invested in such municipalities. [*Thus amended by L. 1878, ch. 344.*]

Option after cities and villages. § 7. In case the city or village entitled to such option shall not, within one month after notice of such appraisal as hereinbefore provided, purchase the property so appraised, then the person or persons who, at the time of such appraisal, are in the use and occupation or are entitled to have the use and occupation of such water privileges as may be so appraised; and in cases where it shall appear that the title of the state to such lands was acquired by grant or otherwise from the owner or owners, and without the payment of any consideration therefor, such owner or owners, their heirs and assigns, of the property adjoining and from which the same has been taken, shall have the first right and option of taking and purchasing the same at the appraised value thereof, and in case no appraisal is had, upon such conditions and terms of payment as shall be approved by the canal board. [*Thus amended by L. 1878, ch. 344.*]

Sales of material of locks, etc. § 8. The material of the locks, aqueducts, bridges and other appurtenances of said canals, except such as are mentioned in section three of this act, shall be sold at public auction to the highest responsible bidder or bidders, on a day and hour, and at a place or places named in such advertisements, or as soon thereafter as may be, and, on such days to which such sales may be adjourned, upon such terms of payment as shall be reasonable and satisfactory on the part of the state, which shall be mentioned in the advertisements, and in such parcels as will, in the judgment of the commissioners or superintendent, be best calculated to secure the highest price therefor, upon the payment at the time of sale in cash, of the amount bid therefor, unless it shall be deemed for the interest of the state to retain them or dispose of them in some other manner.

Sales to adjacent owners. § 9. All such portions of said canals and their branches and feeders so directed to be sold as pass through farming lands, and are not referred to in section five of this act except as hereinafter provided, shall be sold and conveyed by said superintendent of public works to the owners of the adjacent lands, the whole width thereof to the adjacent owner who is possessed of the fee on both sides thereof; and in cases where separate owners are in possession of the fee of the adjacent lands, then to the centre of the prism of the canal to the owners on each side, in consideration of and upon the condition precedent that such owners shall, in writing under their hands and seals, release the state from all obligation to maintain the bridges and other structures connected with such portions of the canals, and from all liability for damages arising from the abandonment thereof. [*Thus amended by L. 1878, ch. 344.*]

Water courses to be restored. § 10. It shall be the duty of said commissioners or superintendent, at all places in said canals which are not to be continued as channels of water for the use of persons or municipalities as purchasers under the provisions of this act, where the course of the neighboring streams had been interrupted and the water thereof directed into the canals except where the water is needed for the purposes of the canals which are retained under the provisions of the Constitution, and except such water privileges as may be sold as herein provided, to restore the streams to their original channels, and to take suitable measures to prevent the flow of the water thereof into the prisms of the abandoned canals.

Sale for railroad or canal purposes. § 11. Whenever the said superintendent shall ascertain that the prism and banks of either of said canals, or any considerable portions of either are desired by responsible parties, or a responsible corporation or corporations, as a bed for the construction of a railroad, or for the continuance of the same as a canal, and that the same can be sold on as favorable terms and for as large an amount therefor as for other purposes, or where the use thereof is deemed for the interests of the locality through which the canal runs, the said superintendent is hereby authorized to sell after January first, eighteen hundred and eighty, either or any such portion of either of said canals for such railroad or

canal purposes on obtaining proper security that the same shall be so constructed within three years from the sale thereof, and proper guaranties that the same shall be used and operated for the purpose indicated in this section, any thing hereinbefore contained to the contrary notwithstanding. All action by the superintendent under this act shall be only with the consent and approval of the canal board. [*Thus amended by L. 1879, ch. 522.*]

Proceeds; forms of conveyances; fee. § 12. The proceeds of all sales as aforesaid made shall be applied, first to the payment of the expenses incurred under this act, and the balance shall be paid into and become a part of the sinking fund, to pay the interest and redeem the principal of the canal debt as provided for in article seven, section three of the Constitution of this state. All conveyances given for sales made under this act shall be in the name of the people of this state, and shall be executed by the governor and attested by the seal of the state, and countersigned by the secretary of state, and shall be recorded in the office of the secretary of state, in books of record to be provided and kept by said secretary of state for that purpose. A fee of one dollar and fifty cents shall be charged by the secretary for such record and certificate thereof, to be paid by the purchaser. [*Thus amended by L. 1878, ch. 344.*]

Claims against the state. § 13. No person or corporation shall have any claim against the state for or by reason of the abandonment or discontinuance of the said canals or any of them.

L. 1878, Chap. 143 — An act relating to the disposition of the prism and banks of the Crooked Lake canal.

Crooked Lake canal. SECTION 1. The commissioners of the land-office of the state of New York are hereby authorized, for the consideration of one hundred dollars, to release and convey all of the right, title and interest of the state of New York in and to the banks and prism of the Crooked Lake canal, to the Penn Yan and New York Railway Company, for the purpose of constructing, maintaining and operating a railroad between Penn Yan and Dresden along the line of said canal.

Conveyance; proviso. § 2. Upon the receipt of the sum mentioned in the first section of this act, the commissioners of the land-office shall make over to the Penn Yan and New York Railway Company the interest of the state of New York to the prism and banks of the Crooked Lake canal, by such a conveyance as will fully alienate the right, title and interest of the state therein and thereto. Provided, that if the said railroad company shall not construct and complete said railroad, or cause the same to be done, within two years from the passage of this act, then said conveyance and alienation shall be void and of no effect.

L. 1878, Chap. 344 — An act to amend chapter four hundred and four of the laws of eighteen hundred and seventy-seven, entitled "An act to provide for the disposition and sale of certain lateral canals of this state, and the lands, rights and other property connected therewith."

[Sections 1-6 amend the act of 1877.]

Not to affect sales already made. § 7. This act shall not affect any disposition of the lateral canals already made, except to complete and perfect the same, or which may hereafter be made by law, before any sale by which the use or fee of any of said canals may be otherwise disposed of.

Bridges. § 8. The superintendent of public works is hereby authorized to contract and settle on equitable terms with the commissioners of highways in towns and with the officers having the powers of commissioners of highways in villages and cities, respecting the disposition of farm bridges and highway or street bridges over said canals and respecting any compensation justly to be made on account of such disposition.

L. 1887, Chap. 169 — An act to repeal chapter four hundred and four of the laws of eighteen hundred and seventy-seven, entitled "An act to provide for the disposition and sale of certain lateral canals of this state, and the lands, rights and other property connected therewith," and chapters three hundred and forty-four of the laws of eighteen hundred and seventy-eight, and five hundred and twenty-two of the laws of eighteen hundred and seventy-nine, amendatory thereof, so far as their provisions apply and relate to the abandonment of Seneca Lake level of the Chemung canal.

Partial repeal of acts enumerated. SECTION 1. Chapter four hundred and four of the laws of eighteen hundred and seventy-seven, chapter three hundred and forty-four of the laws of eighteen hundred and seventy-eight, and chapter five hundred and twenty-two of the laws of eighteen hundred and seventy-nine, so far as their provisions apply and relate to the abandonment of the Seneca Lake level of the Chemung canal, are hereby repealed.

The same. § 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

L. 1880, Chap. 326 — An act relating to the banks and prism of the Genesee Valley canal, and for the sale thereof.

Commissioners of land-office to sell interest of people in banks, etc., of certain canal. SECTION 1. The commissioners of the land-office of the state of New York are hereby authorized and required to sell and convey all of the right, title and interest which the state of New York has in and to the banks and prism of the Genesee Valley canal, between the village of Mount Morris, in the county of Livingston, and the village of Cuba, in the county of Allegany, to any corporation or company, now existing, or which may be hereafter formed for the purpose of constructing, maintaining and operating a railroad along the line of said canal, for the sum of one hundred dollars per mile, and said corporation or company shall be invested with the title of said banks and prism under such sale, and such conveyance shall be executed and delivered when said corporation or company shall pay therefor at the rate aforesaid, and shall execute and deliver to the people of the state of New York a bond in the penal sum of three hundred thousand dollars, with sufficient sureties, conditional that, within two years from the delivery of said conveyance, they shall construct and thereafter maintain and operate a railroad, of a gauge known as the standard gauge, or four feet eight and one-half inches, the whole distance between Mount Morris and Cuba aforesaid, substantially along the line of said canal, and indemnify and save harmless the state of New York from any loss, costs, claim or damage arising from the transfer or sale of said canal as herein provided, and from any claim for damages arising from the construction or operation of said railroad; which said bond, as to form and sufficiency, shall be approved by the commissioners of the canal fund of the state of New York. But such sale and conveyance shall be made in accordance with the provisions expressed in the fourth section of this act.

30 Hun, 565.

Id., between Mount Morris and Erie canal. § 2. The commissioners of the land-office of the state of New York are hereby authorized and required to sell and convey all of the right, title and interest which the state of New York has in and to the banks and prism of the Genesee Valley canal, between the village of Mount Morris, in the county of Livingston, and the Erie canal, in the city of Rochester, county of Monroe, to any corporation or company now existing, or which may be hereafter formed, for the purpose of constructing, maintaining and operating a railroad along the line of said canal, for the sum of one hundred dollars per mile; and said corporation or company shall be invested with the title of said banks and prism under said sale, and such conveyance shall be executed and delivered when said corporation or company shall pay therefor at the rate aforesaid, and shall execute and deliver to the people of the state of New York a bond in the penal sum of three hundred thousand dollars, with sufficient sureties, that, within two years from the delivery of said conveyance, they shall construct and thereafter maintain and operate a railroad, of a gauge known as the standard gauge, or

four feet eight and one-half inches, the whole distance between Mount Morris and the Erie canal, in the city of Rochester aforesaid, substantially along the line of said canal, and indemnify and save harmless the state of New York from any loss, costs, claim or damage arising from the transfer or sale of said canal, as herein provided, and from any claim for damage arising from the construction or operation of said railroad; which said bond, as to form and sufficiency, shall be approved by the commissioners of the canal fund of the state of New York. But such sale and conveyance shall be made in accordance with the provisions expressed in the fourth section of this act.

Id., between Cuba and Millgrove. § 3. The commissioners of the land-office of the state of New York are hereby authorized and required to sell and convey all of the right, title and interest which the state of New York has in and to the banks and prism of the Genesee Valley canal, between the village of Cuba, in the county of Allegany, and the village of Millgrove or the village of Olean, in the county of Cattaraugus, to any corporation or company now existing, or which may be hereafter formed for the purpose of constructing, maintaining and operating a railroad along the line of said canal, for the sum of one hundred dollars per mile, and said corporation or company shall be invested with the title of said banks and prism under said sale, and such conveyance shall be executed and delivered when said corporation or company shall pay therefor at the rate aforesaid, and shall execute and deliver to the people of the state of New York a bond in the penal sum of two hundred thousand dollars, with sufficient sureties, conditional that, within two years from the delivery of said conveyance, they shall construct and thereafter maintain and operate a railroad, of a gauge known as the standard gauge, of four feet eight and one-half inches, between said village of Cuba and Millgrove, or the village of Olean, substantially along the line of said canal, and indemnify and save harmless the state of New York from any loss, costs, claim or damage arising from the transfer or sale of said canal, as herein provided, and from any claim for damage arising from the construction or operation of said railroad; which said bond, as to form and sufficiency, shall be approved by the commissioners of the canal fund of the state of New York. But such sale and conveyance shall be made in accordance with the provisions expressed in the fourth section of this act.

Preferences in making sale; rights reserved. § 4. In making the sale and conveyance hereinbefore provided for, the said commissioners of the land-office shall give preference for the first six months from and after the passage of this act, to the corporation or company which shall first give a bond in the penal sum of seven hundred thousand dollars, with sufficient sureties, conditional that within two years from the execution and delivery of said conveyance they shall construct and thereafter maintain and operate a railroad of a gauge known as the standard gauge, of four feet eight and one-half inches, between the Erie canal, in the city of Rochester, in the county of Monroe and the village of Millgrove, or the village of Olean, in the county of Cattaraugus, substantially along the line of said canal, and through the villages of Cuylerville and Piffard, in the county of Livingston, and otherwise conditional, and to be approved as the bond provided for in section one of this act; and in case no corporation or company shall so give said bond within said six months, then said commissioners of the land-office shall thereafter give preference in making said release and conveyance as follows: To the corporation or company which shall first give the bond required in section one of this act, the said commissioners of the land-office shall release and convey that portion of the banks and prism of said canal embraced in section one. To the corporation or company which shall first give the bond required by section two of this act, the said commissioners of the land-office shall release and convey that portion of the banks and prism of said canal embraced in section two. To the corporation or company which shall first give the bond required by section three of this act, the said commissioners of the land-office shall release and convey that portion of the banks and prism of said canal embraced in said section three; provided, however, that the state may reserve the right to detain that portion of said canal lying between the point where the Cuba reservoir feeder enters said canal to the point

where the Rockville reservoir feeder enters said canal, or so much thereof as may be deemed by the state engineer and surveyor necessary for the purpose of conducting the waters of said reservoir into the Erie canal. Also the state reserves the right to retain that portion of said canal from the point where Allan's creek feeder enters the same to the Erie canal. Also, the state reserves the right to retain any portion of the prism of said canal, for the purpose of conducting the waters from any feeder and reservoir to the Erie canal.

Rights of city of Rochester. § 5. It is further provided, as a condition of the second and fourth sections of this act, that the provisions of such sections are subject to the right and privilege of the corporation of the city of Rochester to build and maintain a sewer in the bed of said Genesee Valley canal lying within the corporate limits of said city. And the right to build and maintain the sewer at the place aforesaid, is hereby given and granted to the corporation of said city of Rochester, on condition, nevertheless, that it shall be constructed and maintained so as not to interfere or injure the use of said Genesee Valley canal line within the limits of said city, for railroad purposes, provided for by this act. And any company or corporation which shall avail itself of the second or fourth provisions of this act shall construct the railroad provided for herein, within the corporate limits of the city of Rochester, with depressed tracks at every crossing of any street, and provide a suitable over-crossing thereat, under the direction of the city surveyor of said city.

Certain portions, when re-conveyed to original owners. § 6. All portions of said Genesee Valley canal, its branches and feeders, embraced in the third section of this act, being all that portion of said canal lying between the village of Cuba, in Allegany county, and the village of Millgrove, in Cattaraugus county, unless they are conveyed to some corporation or company according to the provisions of this act, or are used for hydraulic, hygienic, or fire purposes by villages or cities according to the provisions of chapter four hundred and four of the laws of eighteen hundred and seventy-seven, within one year from the passage of this act shall, at that time, be conveyed to the parties from whom they were taken, or their successors in interest, in consideration of, and upon the condition precedent that such owners shall in writing, under their hands and seals, release the state from all obligations to maintain bridges and other structures connected with such portions of said canal, and from all liability arising from the abandonment. Such conveyance to be executed according to section six, chapter three hundred and forty-four of the laws of eighteen hundred and seventy-eight.

Corporate rights. § 7. Any corporation or company in the construction, maintenance and operating of said railroad along the said canal, or such part thereof as it may acquire under the provisions of this act shall have and enjoy all the rights, privileges and franchises which it has by virtue of its charter, and the general laws of this state relating to the maintenance and operating of railroads.

Sale, when to be void. § 8. In case any corporation or company shall comply with the provisions of this act, and shall receive the conveyance of said banks and prism, or any part thereof, as hereinbefore provided, and shall not construct and operate said road within the time herein limited, then, and in that case, said sale and conveyance shall at once thereafter become void and of no effect, and said banks and prism shall revert to the people of the state of New York.

Repeal. § 9. All acts and parts of acts inconsistent with this act are hereby repealed.

L. 1880, Chap. 551 — An act to provide for the disposition of a portion of the Chenango canal and what is called and known as the Chenango canal extension, and the lands, rights and other property connected therewith.

Title of state granted to adjacent owners; latter to release state. SECTION 1. Except as hereinafter provided all the estate, right, title, interest and property which the people of this state have heretofore acquired and now have in and to all the lands and water privileges taken and appropriated for the purpose of constructing and operating the Chenango canal, and what is called and known as

the Chenango canal extension, commencing at and lying south of the stone culvert in the village of Hamilton in the county of Madison, shall revert to and is hereby granted and released to and vested in the person or persons owning the lands adjoining, to the center line of said canal, in consideration of, and upon the condition precedent that such owner or owners shall, by an instrument in writing, under their hands and seals, and duly acknowledged, release and discharge the state from all obligation to maintain the bridges and other structures connected with such portions of said canal, and of said extension, and from all liability for damages arising from the abandonment thereof, whereupon they and each of them are hereby authorized and empowered to hold, grant, devise and convey the same. In case any of the said adjoining owners shall neglect or refuse to execute and file in the office of the superintendent of public works the release herein designated, and an application for the laying out of a highway to run through, or over any portion of said canal lands so adjoining shall be duly made; it shall be sufficient to serve the requisite notices in highway proceedings on the superintendent of public works by leaving at his office a copy of said notices; and no compensation shall be demandable for canal land thus taken for highway purposes in cases where no release has been executed and filed as aforesaid. [*Thus amended by L. 1881, ch. 489.*]

Interest of state released. § 2. All the estate, right, title, interest and property which the people of this state have heretofore acquired, and now have in and to the several separate portions of the lands and water privileges taken and appropriated for the purpose of constructing and operating the Chenango canal, to wit:

Description. 1. All that portion lying between the southern end of the aqueduct over the Canasawacta creek, in the village of Norwich, Chenango county, New York, the feeder at the head of the level above the lock in said village with the said feeder, feeder-dam and right of user thereof, and all the bridges, locks, aqueducts and appurtenances to said canal within said bounds.

Id. 2. All that portion of said canal lying within the corporate limits of the village of Oxford, Chenango county, New York.

Id.; to villages; corporate authorities to have control; when no longer valuable for hydraulic purposes may be converted into streets; trustees may dedicate it for street purposes or sell same; consent of a majority of electors must be obtained; not to apply to portion of canal. 3. All that portion of said canal lying within the corporate limits of the village of Greene, Chenango county, New York, with the locks, culverts, aqueducts and appurtenances to said canal within said bounds are hereby separately and severally granted, released to and vested in the said several villages of Norwich, Oxford and Greene, respectively—that is to say, the first described portion, including said feeder, feeder-dam and rights of user thereof, the locks, bridges, aqueducts and appurtenances to said canal within said bounds in the said village of Norwich, in said county of Chenango; the second described portion in the village of Oxford in said county of Chenango, and the third described portion in the village of Greene, in said county of Chenango, in fee, for hydraulic, mechanical, sanitary, fire or street purposes, or for any other purposes for which said villages may direct not inconsistent with those purposes, with the privilege additional to the said village of Norwich of using the water from the said feeder, and the right to repair and keep in repair the feeder-dam and canal so granted, released to and vested in said village as a conduit of water to and through the said portion of said canal. The corporate authorities of each of said several villages, respectively, shall have the exclusive control and management of the portion of the said canal herein granted, released to and vested in their and each of their said villages, respectively, and of the locks, bridges, culverts, aqueducts, embankments, dam and feeder therewith connected, and shall assume as a consideration of this grant all liability for the care and maintenance of the same, and shall protect and keep the state harmless from all damages to adjoining owners hereafter arising from the abandonment thereof. Whenever either of said portions of said canal so granted, released to and vested in each of said several villages, respectively, shall cease to be serviceable or desirable to the village to which it is granted for hydraulic, mechanical, sanitary or fire purposes, it shall be lawful for such village to convert

the same or any portion thereof into streets or avenues for the benefit and development of the village, or if not desired for street purposes, to make such other disposition thereof, not inconsistent with such purpose, as such village may direct. The trustees of said several villages respectively are hereby authorized to dedicate for street purposes or to sell, convey or release any of the lands hereby granted, released to or vested in their respective villages and to give and make the necessary deeds, releases and conveyances therefor, but no such dedication, sale or release shall be made or executed except upon the consent of a majority of the electors of such villages attending and voting therefor, at a meeting or election in such villages. Such vote may be taken at an annual election in said village or at a special election called for the purpose by the trustees, but not until after two weeks' notice in two newspapers published in any such village if so many shall be published therein, or if not, then the newspaper published therein, shall have been given of the intention to vote upon the question of a disposition of the said lands or any part thereof, which notice shall state the substance of the action proposed. The power of dedication, sale or release, however, shall not apply to this portion of the said canal hereby granted, released to and vested in the said village of Norwich as are situated north of the boundaries of the said village, but such portion shall, in case the said village at any time decides no longer to use the same for mechanical, sanitary, hydraulic or fire purposes, revert to and are hereby granted, released to and vested in the person or persons owning the land adjoining, to the centre line of said canal, subject to the duty to take care of the bridges thereon, and to keep the water drained therefrom. Nor shall this power of dedication, sale or release apply to such portions of the left bank of said canal lying within the corporate limits of any of said villages and upon which storehouses and other business buildings or blocks have been erected for business purposes, but such portions thereof shall revert to and hereby are granted, released to and vested in the owner of said buildings, their heirs and assigns forever; subject, however, to the right of any of said villages to appropriate the same or any portion thereof for street purposes, if such portion shall be deemed necessary, or be desired by any of said villages for that purpose, upon compensating such owners for the expenses necessarily incurred in the removal of any such buildings therefrom.

Interest of state released; overseers of highways to have exclusive control; penalty for obstructing officer in discharge of duty. § 3. All the estate, right, title, interest and property which the people of this state have heretofore acquired and now have in and to all that portion of said canal lying in the town of Fenton, in the county of Broome, to wit: from a point thirty feet below the canal bridge at a place known as Van Name's Port and extending from that point to a point thirty feet beyond the canal bridge site at or near Port Crane in said town, with the bridges, culverts, and other materials and embankments thereto appertaining is hereby granted released to and vested in the said town of Fenton for a public highway only, with the right to repair and keep in repair and fill up the same or any part thereof for such purpose. The overseer or overseers of highways of the said town of Fenton shall have the exclusive control and management of the portion of the canal herein granted to the said town, and are hereby authorized and empowered to remove all encroachments upon said lands and premises, and do and perform all things respecting the same that he or they are authorized to do and perform in respect to any other highway in said town, and as a condition of this grant the said town of Fenton shall assume all liability for the care and maintenance of the same, and the bridges, culverts, and other materials thereon, and release and discharge the state from all obligations to maintain the said bridges and other structures connected with such portions of said canal, and from all liability to adjoining owners for damages hereafter arising from the abandonment thereof. [*The remainder of this section repealed by L. 1886, ch. 593.*]

Villages and towns to execute and deliver acceptance to superintendent of public works as condition precedent or title to be vested in adjoining owners. § 4. In case any of the villages named in the second section of this act, or in case the said town of Fenton named in the third section of this act, shall neglect or refuse for the period of sixty

days from and after the passage of this act to execute and deliver to the superintendent of public works an acceptance in writing of the estate, right, title, interest and property herein granted, released to and vested in any of said villages, or in said town of Fenton, and release the state from all the obligations and liabilities herein imposed upon said villages and upon said town of Fenton, as a condition precedent to this grant, every such estate, right, title, interest and property of the state in and to the lands and water privileges herein and hereby granted to any such villages, or to such town of Fenton, shall revert to and become thereupon vested in the adjoining owners in the same proportions, and upon the same restrictions and limitations, provided for in the first section of this act, and subject to all the conditions therein imposed; and in that event the material of the locks, culverts, aqueducts and other appurtenances shall be and remain the property of the state until otherwise disposed of. And in case any such lands and privileges lying within the corporate limits of any such village shall, owing to the neglect or refusal of such village to accept the same and execute the releases required by this act, revert to and become vested in the adjoining owners as hereinafter provided, it shall be the duty of such owners to so use the same that the public health shall not suffer or the property of others be injured thereby; and such owners and such lands shall be subject to the jurisdiction and authority of the said villages in the same manner and to the same extent as other persons and other lands are subject.

Superintendent to indorse approval on acceptance. § 5. It shall be the duty of the said superintendent, under the receipt of any such acceptance and release as is provided for in the foregoing section, if the same shall be deemed sufficient for the purposes of this act, to indorse his approval thereon and file the same in his office.

Not to affect vested rights; not to affect rights of state necessary to Erie canal. § 6. Nothing in this act shall affect in any way the disposition of any portion of said canal or said extension heretofore made according to law, except to complete the same, or any way interfere with or prevent a disposition and removal of the material of the locks, culverts, aqueducts, bridges and other appurtenances of said canal and said extension, not herein in any manner disposed of, as provided by chapter four hundred and four of the laws of eighteen hundred and seventy-seven and the acts amendatory thereof. And provided that no part of such canal shall be taken by this act from the state, nor any of the reservoirs thereon, which reservoirs are necessary to provide water for the use of the Erie canal or where such canal is necessary to convey such water from the reservoirs to said Erie canal. [Section 7 repeals inconsistent acts.]

L. 1881, Chap. 288 — An act to provide for recording releases executed pursuant to chapter five hundred and fifty-one, laws of eighteen hundred and eighty, and the approvals thereof, and for making the records and the certified copies thereof evidence.

Releases to state to be recorded. SECTION 1. All releases heretofore executed and all releases which hereafter may be executed to the state of New York under chapter five hundred and fifty-one, laws of eighteen hundred and eighty, and approved by the superintendent of public works, if proved or acknowledged in the manner in which conveyances of real estate are required to be for the purpose of record, may, with the approval thereon, be recorded by the clerk of the county in which the lands referred to in the release are situated, in the books in which deeds are recorded, and indexed in the name of the state of New York as grantor and in the name of the releasor as grantee, for which service clerks of counties shall be entitled to the compensation now allowed by law for recording conveyances of real estate.

Evidence. § 2. The record of any such release and approval thereof, or a certified copy of the record thereof, shall at all times and in all places be evidence, and of the same force and effect as though the original was produced and proved.

Duty of superintendent. § 3. Whenever the clerk of any county shall require any such release or releases, for record, the superintendent of public works shall transmit them to such clerk, who shall record and return the same within sixty

days to said superintendent of public works without expense to such superintendent.

Application of act. § 4. This act shall apply to releases executed by villages or towns under said act.

L. 1881, Chap. 482—An act to sell and release the right, title and interest of the people of the state of New York in the Chemung canal, and to make an appropriation therefor.

Interest of state released. SECTION 1. All the estate, right, title and interest of the people of the state of New York of, in and to all the lots of land and real estate, together with the buildings thereon, taken and appropriated for the purpose of constructing and operating the Chemung canal, is hereby granted and released to and vested in the person or persons named in the four subdivisions of this section, as sold to said parties by the superintendent of public works under and by virtue of chapter four hundred and four, laws of eighteen hundred and seventy-seven, and the acts amendatory thereof, such sales being approved by the canal board March twentieth, eighteen hundred and eighty, namely:

1. House and lot at lock number two, vested in Philip Farley, of Corning, New York.

2. Nearly one-fourth of an acre of land, with lock-house, state shop and barn, at lock twenty-six, vested in Stephen B. Banks and Samuel C. Allen, of Millport, New York.

3. House and lot of nearly one-fourth of an acre of land, at lock number forty-five, vested in Josiah Bennett, of Horseheads, New York.

4. Small piece of land, with house, at lock fifty-one, vested in John McLoughlin, of Horseheads, New York.

To adjoining owners. § 2. Except as provided by section one, and as hereinafter provided, all the estate, right, title, interest and property which the people of this state have heretofore acquired, and now have in and to all the lands and water privileges taken and appropriated for the purpose of constructing and operating the Chemung canal and Chemung canal feeder, excepting that portion extending from the city of Elmira to the intersection of the Utica, Ithaca and Elmira railroad, at Horseheads, shall revert to, and is hereby granted, released to and vested in the person or persons owning the lands adjoining to the center of the prism of said canal, in consideration of, and upon condition precedent, that such owners shall file with the superintendent of public works an instrument, in writing, under their hands and seals, and duly acknowledged, releasing and discharging the state from all obligation to maintain the bridges and other structures connected with such portions of said canal and feeder, and from all liability for damages arising from the abandonment thereof. Whereupon they, and each of them, are hereby authorized and empowered to hold, grant, devise and convey the same. Nothing in this act shall affect in any way the privileges granted to the village of Horseheads by chapter three hundred and seventy-nine of the laws of eighteen hundred and eighty.

Id. § 3. Upon executing and filing a release as required by the foregoing section, all the estate, right, title, interest and property which the people of this state have heretofore acquired, and now have, of, in and to the lands appropriated for canal purposes, lying adjacent to the Chemung river, shall revert to and are hereby granted to and vested in the person or persons owning the land adjoining on each side of said river.

Indorsement on release. § 4. It shall be the duty of said superintendent, upon the receipt of any such acceptance and release as is provided for in the foregoing section, if the same shall be deemed sufficient for the purpose of this act, to indorse his approval thereon, and file the same in his office.

Property to be sold. § 5. The superintendent of public works, by and with the consent of the canal board, is hereby authorized and required to sell all of the

right, title and interest which the state of New York has in and to the banks, prism and water privileges of that portion of said canal lying in the county of Schuyler, and known as the "lake level," extending from the head of Seneca lake to and including lock one, near the village of Havana, to any responsible person or persons, corporation or corporations, desiring the continuance of the same as a canal, upon their executing a good and sufficient bond, in the penal sum of ten thousand dollars, indemnifying the state of New York from any loss, cost, claim or damage arising from the transfer of said portion of said canal, and from all further liability to maintain the bridges and other structures connected with the same, and to turn Fall creek, so called into its old channel, and cause the waters to empty into Catharine creek. The conveyance given for the sale, under this section, shall be in the name of the people of this state, and shall be executed by the governor, and shall be attested by the seal of the state, and countersigned by the secretary of state, and shall be recorded in the office of the secretary of state.

Appropriation for bridges. § 6. The sum of four thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of the revenues of the canals for the fiscal year ending September thirtieth, eighteen hundred and eighty-one, for the purpose of settling and compromising with the purchasers under the foregoing section, for the maintenance of the bridges and other structures connected with such portion of said canal. Such payment to be made by the said superintendent on such terms as he shall deem for the interest of the state, subject to approval by the canal board.

When portion of canal to revert. § 7. In case application is not made within sixty days from the passage of this act, for that portion of the canal named in the fifth section of this act, the same, and all the right, title and interest of the state of New York, shall revert to the adjoining owners, as prescribed by section two of this act, and it shall be the duty of the superintendent of public works to make such disposition of the structures and water privileges, connected with such portion of the canal, as, in his judgment, will relieve the state of New York from any further liability thereon, and he is authorized to use the money appropriated by section six of this act for that purpose.

Recording copies of releases. § 8. All copies of releases, executed to the people of the state of New York, under sections two and three of this act, certified by the superintendent of public works, under his hand, and the seal of his said office, to be true copies of the original, as approved and filed in his office, providing the said original release is proved or acknowledged in the manner in which conveyances of real estate are required to be, for the purpose of record, may be recorded by the clerk of the county, in which the lands referred to in the release are situate, in the books in which deeds are recorded, and indexed in the name of the state of New York, as grantor, and in the name of the releasor, as grantee, for which service clerks of counties shall be entitled to the compensation now allowed by law for recording conveyances of real estate.

Evidence. § 9. The record of any such certified release, or a certified copy of the record thereof, shall at all times and in all places be evidence, and of the same force and effect as though the original was produced and proved.

L. 1881, Chap. 593—An act for the removal of causes of malaria and danger to the public health from a portion of the abandoned Chemung canal and Genesee Valley canal, and making an appropriation for such purposes.

Drainage of bed of certain canals. SECTION 1. The superintendent of public works, under advice and direction of the state board of health, is hereby authorized and required to make such improvements, by ditching, draining, culverting and otherwise, as shall secure suitable drainage of the bed of the Chemung canal, from Havana, or lock number two, in the county of Schuyler, to Horse-

heads, in the county of Chemung, and also along the line of the late Genesee Valley canal, in the towns of Groveland and Mount Morris, and their vicinity; such drains, ditches, culverts, or other work, shall be of permanent and lasting character.

Appropriation. § 2. The sum of six thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purposes aforesaid, payable by the state treasurer, on the warrant of the comptroller, out of any funds not otherwise appropriated, to the superintendent of public works, to be by him expended for the purposes defined in section one of this act.

L. 1881, Chap. 666—An act to authorize the state engineer and surveyor and superintendent of public works to remove the water from the Genesee Valley canal, and carry the same across the Genesee river into the Genesee river feeder.

Removal of water from Genesee Valley canal. SECTION 1. The state engineer and surveyor and superintendent of public works are hereby authorized and empowered to remove, or cause to be removed, the water from the Genesee Valley canal in the city of Rochester and territory adjacent thereto, and carry the water from Allen's creek, now running into said Genesee Valley canal, across said river into the Genesee river feeder, for the use of the state, without expense to the state of New York or to the city of Rochester, and are authorized to enter into contract with any railroad company which may hereafter build a railroad along the line of said canal, to have said company keep in repair and maintain at its own expense a proper conduit to convey said Allen's creek waters, the same to be done under the direction and control of the superintendent of public works and the state engineer and surveyor.

L. 1882, Chap. 166—An act to release the right, title and interest of the people of the state of New York in certain portions of the Genesee Valley canal.

Interest of state released. SECTION 1. All the estate, right, title and interest of the people of the state of New York of, in and to the real estate, reservoirs, dams and water privileges taken and appropriated for the purpose of constructing and operating the Genesee Valley canal, is hereby granted, released to and vested in the persons named in the two subdivisions of this section, as sold to said parties by the superintendent of public works under and by virtue of chapter four hundred and four, laws of eighteen hundred and seventy-seven, and the several acts amendatory thereof, such sales being approved by the canal board July eighth, eighteen hundred and eighty-one, and they, and each of them, are hereby authorized and empowered to hold, grant, devise and convey the same.

1. All the real estate appropriated by the state of New York for the Wiscoy reservoir, to the transit line, and situate within the boundary line of Moses Taggart's land, in the county of Allegany, including the reservoir, dam, and water privilege vested in Moses Taggart of Batavia, New York.

2. All the real estate appropriated for the Ischua reservoir, and the feeder leading from said reservoir to the aqueduct across Oil creek, so called, being all the lands appropriated by the state of New York for said reservoir and feeder situate in the county of Cattaraugus, including the reservoir, dam, water privilege and other appurtenances connected therewith, vested in O. W. Chamberlin, of Ischua, New York.

The same. § 2. Except as provided by section one, all the estate, right, title, interest and property which the people of this state have heretofore acquired, and now have in and to all the lands and water privileges taken and appropriated for the purpose of constructing and operating that portion of the Genesee Valley canal, commonly known as the Dansville branch, extending from a point in the village of Dansville, in the county of Livingston, to the main line of said canal, and that portion of said canal known as the Wiscoy feeder in the county of Allegany, extending from the boundary line of Moses Taggart's land to the main line of said canal, shall revert to and is hereby granted, released to and vested in the person or persons owning the lands adjoining to the center of the prism of said canal and feeder, in considera-

tion of, and upon condition precedent that such owners shall file with the superintendent of public works an instrument, in writing, under their hands and seals, duly acknowledged, releasing and discharging the state from all obligation to maintain the bridges and other structures connected with said canal and feeder, and from all liability for damages arising from the abandonment thereof. Whereupon they and each of them are hereby authorized and empowered to hold, grant, devise and convey the same. Nothing in this act shall in any way affect the lands of the Dansville side-cut and basin situate in the village of Dansville, as sold and conveyed to John McCurdy.

Superintendent to indorse approval on release. § 3. It shall be the duty of the said superintendent of public works, upon the receipt of any such acceptance and release as is provided for in the foregoing section, if the same shall be deemed sufficient for the purposes of this act to indorse his approval thereon and file the same in his office.

Certified copies may be recorded. § 4. All copies of releases executed to the people of the state of New York, under section two of this act, certified by the superintendent of public works, under his hand and the seal of his said office, to be true copies of the original, as approved and filed in his office, providing the said original release is proved or acknowledged in the manner in which conveyances of real estate are required to be, for the purpose of record, may be recorded by the clerk of the county, in which the lands referred to in the release are situate, in the books in which deeds are recorded and indexed in the name of the state of New York as grantor, and in the name of the releasor as grantee, for which service clerks of counties shall be entitled to the compensation now allowed by law for recording conveyances of real estate.

Evidence. § 5. The record of any such certified release, or a certified copy of the record thereof, shall at all times and in all places be evidence, and of the same force and effect as though the original was produced and proved.

L. 1883, Chap. 450 — An act to provide for the disposition of certain portions of the Chenango canal not necessary for feeder purposes.

Superintendent may lease prism, etc., of canal in Utica. SECTION 1. The superintendent of public works is hereby authorized to lease, in the name of the people of this state, for such term of years as may be agreed upon, any portion of the prism and banks of the Chenango canal over and above what may be necessary for the maintaining of a sufficient channel for feeder purposes in the center of said prism, lying within the limits of the city of Utica, to the adjoining property owners, for the consideration that said property owners will, at their own cost and expense, remove the highway, street or farm bridges, crossing this portion of the Chenango canal, that may be contiguous to the property of said adjoining owners, and will rebuild any such bridge or bridges, in such manner as the superintendent of public works may direct, and will maintain them in good and sufficient repair during the term of such lease; and for the purpose aforesaid, to execute, acknowledge and deliver all necessary leases and other written instruments.

L. 1884, Chap. 98 — An act to provide for the disposition of certain portions of the Chenango canal not necessary for future purposes.

Superintendent to lease to railroad right to construct road on canal bank. SECTION 1. The superintendent of public works is hereby authorized to lease the right and privilege, in the name of the people of this state, to the Utica, Clinton and Binghamton Railroad Company, to construct, maintain and operate its railroad upon the easterly bank of the Chenango canal, at and near Oriskany Falls, in Oneida county, upon such terms and conditions as may be agreed upon, beginning at a point on the easterly bank thereof two hundred and eighty-seven feet westerly or southerly of the upper groin of lock number fifty-nine, and extending easterly along the easterly bank of said canal to the foot of lock number fifty-three, being about sixty-six chains and thirty-five links in length; and for the purposes aforesaid to execute, acknowledge and deliver all necessary conveyances therefor.

L. 1884, Chap. 105 — An act to provide for the drainage of the prism of the abandoned Chemung canal, in the town of Horseheads, in the county of Chemung, and appropriating certain moneys for such purpose.

\$5,000 appropriated for drainage. SECTION 1. The sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purpose of draining the prism of the late abandoned Chemung canal within the limits of the town of Horseheads, and in the removal of obstructions to, and in the making of an outfall for, said drainage. This money is to be expended by the superintendent of public works under the advice and direction of the state board of health. Such drainage ditches, culverts, outfall, and other work necessary, shall be of a permanent and lasting character.

Money, how paid and expended. § 2. The money hereby appropriated for the purposes aforesaid shall be payable by the state treasurer, on the warrant of the comptroller, out of any funds not otherwise appropriated, to the superintendent of public works, to be by him expended for the purposes defined in section one of this act, and said sum shall be in full for the purposes for which said sum is hereby appropriated, and no other appropriation of money shall hereafter be made by the state for said purposes.

L. 1884, Chap. 382 — An act to provide for the disposition of Woodman's pond and a portion of the Chenango canal and the lands, rights and other property connected therewith.

Lands released to and vested in village of Hamilton; certain persons, etc., to release state and consent to conveyance. SECTION 1. All the estate, right, title, interest and property which the people of this state have heretofore acquired, and now have in and to the several separate portions of the lands and water privileges taken and appropriated for the purpose of constructing and operating the Chenango canal, commencing at and lying north of the stone culvert in the village of Hamilton, in the county of Madison, and extending north of said culvert, to the north wings of lock number seventy-nine, and including the reservoir known as Woodman's pond, lying and being adjacent thereto, is hereby granted and released in fee to and vested in the village of Hamilton in said county of Madison. All persons and corporations having or claiming to have any right in or to the waters of said reservoir, or of that part of said canal hereby released and conveyed, or having or claiming any right to have the state of New York maintain said reservoir or the aforesaid part of said canal, and all owners of lands adjacent to said reservoir and said part of said canal shall, by deeds duly executed and acknowledged, consent to such release and conveyance, and shall release and discharge the state from all obligation to maintain said reservoir, and said parts of said canal, and from all damages which may arise from the release and conveyance by the state herein contained.

Release not to take effect till consents are secured. § 2. The release and conveyance herein contained shall not take effect until the deeds mentioned in section one of this act shall have been executed and delivered to the superintendent of public works, nor until said superintendent shall have approved such deeds and certified that the condition precedent set forth in said section one has been fully performed; such deeds together with said certificate shall be filed in the office of the comptroller of this state.

Repeal. § 3. All acts and parts of acts inconsistent with this act are hereby repealed.

L. 1886, Chap. 276 — An act to provide for the drainage and for the filling up of the prism and of the lock of the abandoned Chemung canal, in the village of Corning, Steuben county, and appropriating certain moneys for such purpose.

Appropriation for drainage. SECTION 1. The sum of three thousand dollars, or so much thereof as may be necessary, is hereby appropriated for draining the prism and filling up the lock of the late abandoned Chemung canal, within the limits of the town of Corning, Steuben county. This money is to be expended by the superintendent of public works, under the advice and direction of the state board

of health. Such drainage and filling up and other necessary work, to accomplish the purposes of this act, shall be done in a permanent manner.

Money, how paid and expended. § 2. The money hereby appropriated, for the purposes aforesaid, shall be payable by the state treasurer, on the warrant of the comptroller, out of any moneys not otherwise appropriated, to the superintendent of public works, to be by him expended for the purposes defined in section one of this act, and said sum shall be in full for the purposes for which said sum is hereby appropriated, and no other appropriation of money shall hereafter be made by the state for said purpose.

L. 1887, Chap. 428 — An act to provide for the disposition of the new Oneida Lake canal.

To whom lands to revert; condition. SECTION 1. All the estate, right, title, interest and property which the people of this state have heretofore acquired and now have in and to all the lands taken and appropriated for the purpose of constructing and operating the new Oneida Lake canal, in the county of Madison, shall revert to and is hereby granted and released to and vested in the person or persons, their heirs and assigns, from whom the land was appropriated in consideration of and upon the condition precedent, that such owner or owners shall, the owner or owners of each parcel separately, by an instrument in writing, under their hands and seals, and duly acknowledged, relieve and discharge the state from all obligations to maintain the bridges and other structures connected with such portions of said canal as is hereby released to them, and from all liability for damages arising from the abandonment thereof, whereupon they, and each of them who shall execute and deliver to the superintendent of public works such foregoing described instrument, are hereby authorized and empowered to hold, grant, devise and convey the same.

Power of superintendent of public works. § 2. The superintendent of public works is hereby empowered and directed to remove the bridges on said canal, on the lines of the public highways, and to build culverts in the bed of the canal where said highways cross the same, of sufficient size to carry off the water which may accumulate in said canal, and to remove the approaches and fill the canal up where said highways cross the same, to the level of said highway as near as practical. The sum of five hundred dollars is hereby appropriated from any sum in the treasury not otherwise appropriated, to pay the expense of removing said bridges, building said culverts and grading said highways. The money hereby appropriated for the purpose aforesaid shall be payable by the state treasurer on the warrants of the comptroller, out of any moneys not otherwise appropriated, to the superintendent of public works, to be by him expended for the purpose defined in section two of this act.

Reservation. § 3. The state reserves the right to such material in the locks of said canal as can be used on other canals of the state.

L. 1887, Chap. 456 — An act to provide for the filling, levelling and restoration to their original surface, as nearly as practicable, of the lands occupied by the abandoned Chenango canal in the city of Utica, and for the appropriation of the state's interest in such lands to defray the cost of such work.

Commission created. SECTION 1. The mayor, city surveyor, city attorney and city treasurer, each *ex-officio* of the city of Utica, are hereby constituted a commission with authority to contract for and direct the filling, levelling and restoration to their original surface, as nearly as practicable, of that part of the lands of the abandoned Chenango canal which lie in the city of Utica and southerly of the southerly line of Court street in said city of Utica, and to sell, as herein provided, such lands to defray the cost of such work.

Commissioners' oaths and bonds. § 2. Before entering upon their duties the commissioners shall take the oath of office prescribed by the Constitution, and file the same in the office of the secretary of state, and shall also give bonds for such amount and with such sureties as shall be approved by the superintendent of public works for the faithful discharge of their duties.

To advertise for proposals; contract to lowest bidder. § 3. Within seventy days after taking and filing such oath and giving such bonds, the said commissioners shall advertise for ten days in two daily newspapers published in the city of Utica for proposals for the work of filling, grading and restoration as herein provided, according to plans to be previously prepared by them. Such proposals may be for any parts of such work, indicated in the plans, or for the whole in one bid, and the person who shall offer to do the work for the lowest price, and give satisfactory security for its performance, shall be awarded the contract for doing it.

City of Utica to issue bonds. § 4. When it shall be ascertained from the contracts made what the work is to cost, the said commissioners shall apply to the common council of the city of Utica for the issue of a sufficient amount of bonds to cover such cost, including the engineering and necessary contingent expenses, which contingent expenses shall not exceed five hundred dollars, and the common council shall issue such bonds accordingly. They shall be issued for a term not exceeding one year, and at a rate of interest not exceeding four per centum, and shall be sold for not less than par. The proceeds shall be deposited in the city treasury, subject to the draft of the said commissioners for the payment of the work to be done pursuant to this act.

When work completed, interest of state to be conveyed. § 5. When the work shall be completed according to the plans, the commissioners shall report the fact to the superintendent of public works, who shall thereupon make a personal inspection of it; and if he shall find it has been done in a proper manner shall file a certificate to that effect in the office of the secretary of state, and shall then convey to the city of Utica by the usual form of conveyance all the right, title and interest which the state has in such real estate.

Property to be divided and sold at auction. § 6. Within thirty days after the reception by the city of Utica of the conveyance in the last preceding section, provided to be given, the commissioners shall divide the said real estate into suitable parcels, and shall cause an accurate map and plot of the same to be made and posted in the office of the city surveyor. They shall then advertise for two weeks in two daily newspapers of the city of Utica that on a day and hour to be stated in such advertisement the said parcels will be sold at public auction to the highest cash bidder; and at the time stated the sale of such real estate shall commence and shall continue from day to day, if necessary, till the whole shall be sold. Ten per centum of the purchase-price shall be paid to the commissioners at the time of such sale; the remaining ninety per centum shall be paid on the delivery of the proper conveyance of the property so purchased from the city.

Deeds to be executed. § 7. Conveyances in the usual form of all the right, title and interest of the state of New York shall be executed by the mayor of the city, and attested by the corporate seal and delivered to those who may become purchasers under the last preceding section.

Application of proceeds. § 8. All payments on account of such sales shall be deposited on the day of their receipt by the commissioners into the city treasury, and shall be applied by the city treasurer to the payment of the bonds to be issued in pursuance of the provisions of section four of this act.

If insufficient, tax to be levied. § 9. Should the proceeds of the sale of lands prove insufficient for the payment in full of such bonds, with the lawful interest thereon, the common council of the city of Utica shall provide in their next annual tax levy for the raising of a sufficient sum to meet the deficiency. Should the proceeds of the sale amount to more than the sum of the bonds issued, with the lawful interest, the surplus shall be applied to the use of the general city fund.

No compensation to commissioners. § 10. The commissioners shall receive no compensation for their services under this act, but shall be allowed their disbursements for surveys, maps, clerical services, advertising and other necessary contingent expenses actually incurred not exceeding five hundred dollars.

Their report. § 11. The commissioners shall, at the close of their services under this act, make and file in the office of the secretary of state a full report of their proceedings under this act.

Reservation of right of state. § 12. Nothing contained in this act shall in any way affect the rights of the state of New York to keep and maintain its line of water pipe leading from the lands heretofore taken by the state of George R. Perkins and others, and from what is known as the asylum spring on the Perkins farm, along the easterly line of said canal to or near the fifth lock on said canal, and from thence to the State Lunatic Asylum in the city of Utica as the same is now laid and used for said asylum, and to enter upon said lands to relay or repair said pipe at will. And all rights conferred by this act to the city of Utica and to the purchasers of said lands or any part thereof, shall be at all times subject and subservient to the rights of the state of New York as herein reserved.

L. 1887, Chap. 588 — An act to provide for the disposition of that portion of the Chenango canal between the southerly line of the city of Utica and the village of Solsville, Madison county, and the lands, rights and other property connected therewith.

Lands released to adjoining owners; conditions, etc. SECTION 1. Except as herein-after provided all the estate, right, title, interest and property which the people of this state have heretofore acquired and now have, in and to all lands, taken and appropriated for the purpose of constructing and operating the Chenango canal, commencing at the southerly line of the city of Utica, and extending to the village of Solsville, in the county of Madison, except that portion of said canal lying between the southerly line of the city of Utica and the Sauquoit* creek, and that portion of the canal lying between locks twenty-three and eighteen and including the same, and which portion is partly included in the corporate limits of the village of Clinton, and that portion of said canal in the village of Oriskany Falls, between a point two hundred feet west of the westerly end of the storehouse of James A. Douglass, and the westerly side of the bridge near Burdette Miner's house, shall revert to and is hereby granted and released to and vested in the person or persons owning the lands adjoining to the center line of said canal, in consideration of and upon the conditions precedent, that such owner or owners shall by instrument in writing under their hands and seals, and duly acknowledged, release and discharge the state from all obligation to maintain the bridges and other structures connected with such portions of said canal, and from all liability for damages arising from the abandonment thereof, whereupon they and each of them are hereby authorized and empowered to hold, grant, devise and convey the same. [*Thus amended by L. 1888, ch. 23.*]

Right reserved to Globe Woolen Company. § 2. The Globe Wollen* Company of Utica, its successors and assigns, are hereby granted the right to keep and maintain its line of water pipes as now laid along the westerly side of said canal, from the highway bridge above lock number ten on said canal,* from the highway bridge above lock number ten on said canal* in the town of New Hartford, northerly to the east branch of Nail creek as it passes under said canal near the city line of the city of Utica, which pipes were laid by permission of the canal board by a resolution passed by said board on the fourteenth day of November, eighteen hundred and seventy-six.

Commissioners of land-office to sell certain lands. § 3. The commissioners of the land-office are hereby authorized to sell, except such portions as they may deem necessary or useful for the protection of the supply of water as now used by the State Lunatic Asylum at Utica, in such manner as they may think proper at public or private sale, subject to the rights granted by section two of this act, all that portion of said canal mentioned in section one of this act, lying between the southerly line of the city of Utica and the Sauquoit creek in the town of New Hartford, and in making such sales may impose such terms, restrictions, and conditions as such commissioners may think proper; and upon such sales said commissioners are authorized to grant and convey the same to the purchasers thereof.

Certain lands granted to village of Clinton; restrictions, etc. § 4. All that portion of the Chenango canal between lock number twenty-three and lock number eighteen mentioned in section one of this act, is hereby granted and released to and vested

* So in the original.

in the said village of Clinton in fee, on the conditions hereinafter named, for hydraulic, mechanical, sanitary, fire or street purposes, or any other purposes which said village may direct, not inconsistent with these purposes. The water shall flow through said portion of said canal to the extent and in the quantity it now flows and as much more as the quantity flowing into the said canal or the Oriskany creek from the reservoirs near Solsville. The flow of water to be regulated by the proper state authority. The village of Clinton is authorized to and shall bear the expense of maintaining such flow. The village of Clinton shall also, by a sufficient instrument in writing, release and discharge the state from all obligation to maintain the bridges and other structures connected with such portions of said canal, and from all liability for damages arising from the abandonment thereof, and to maintain said structures. And said village of Clinton is hereby authorized and empowered to make such instrument and assume said liability.

Effect of failure of village to comply. § 5. In case the village of Clinton shall neglect or refuse, for a period of sixty days from and after the passage of this act, to execute and deliver to the superintendent of public works an acceptance in writing of the estate, right, title, interest and property therein granted, released to and vested in said village, and release the state from all the obligations and liabilities herein imposed upon said village as a condition precedent to this grant, every such estate, right, title, interest and property of the state in and to the lands herein and hereby granted to the village of Clinton shall revert to and become thereupon vested in the adjoining owners in the same proportion, and upon the same restrictions and limitations as provided for in the first section of this act, and subject to all the conditions therein imposed, and in that event the material of the locks, culverts, aqueducts, and other appurtenances shall be and remain the property of the state until otherwise disposed of.

Provision as to intersecting roads. § 6. In all cases where the roads intersect or cross the said canal, the commissioners of highways of the town within which said road or roads are located shall release the state from damage, upon the same limitations and restrictions as prescribed by section one of this act.

Duty of superintendent. § 7. It shall be the duty of the superintendent of public works, under the receipt of any such acceptance and release, as is provided for in the foregoing sections, if the same shall be deemed sufficient for the purposes of this act, to indorse his approval thereon and file the same in his office.

Proviso as to effect of this act. § 8. Nothing in this act shall affect in any way the disposition of any portion of said canal, heretofore made according to law, except to complete the same or in any way interfere with or prevent a disposition and removal of the material of the locks, culverts, aqueducts, bridges and other appurtenances of said canal, and not herein in any manner disposed of, as provided by chapter four hundred and four of the laws of eighteen hundred and seventy-seven, and the acts amendatory thereof; and provided that no part of such canal shall be taken by this act from the state, nor any of the reservoirs thereon, which reservoirs are necessary to provide water for the use of the Erie canal, or where such canal is necessary to convey such water from the reservoir to said Erie canal.

Certain lands granted to village of Oriskany Falls; conditions. etc. § 9. All that portion of the Chenango canal commencing at a point two hundred feet west of the westerly end of the store-house of James A. Douglass, in the village of Oriskany Falls, and running westerly to the westerly side of the bridge near Burdette Miner's house, is hereby released to and shall vest in the village of Oriskany Falls, in the town of Augusta, Oneida county, when said village shall be duly incorporated, for the purpose of a public park; said village shall become incorporated within one year, to have and take the benefit of this release and grant. The said village, when so incorporated, shall release and discharge the state, by an instrument in writing, from all obligations to maintain any bridge or other structure connected with the said portion of said canal mentioned in this section, and shall also indemnify the state against and from all liability for damages arising from such release and abandonment of said portion of said canal. And if the said village shall fail to become incorporated, or fail to accept this grant and comply with the

conditions thereof within the time originally limited therefor, then said lands, in this section above described, shall revert to the owners adjoining (the same) under the provisions and subject to the conditions and considerations named in section one of this act. [*Thus amended by L. 1888, ch. 23.*]

Repeal. § 10. All acts or parts of acts inconsistent with this act are hereby repealed.

TITLE 9.

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ARTICLE SECOND.

OF THE CANAL COMMISSIONERS AND THEIR GENERAL POWERS AND DUTIES.

- SEC. 9.** Superintendence of canals vested in canal commissioners, who are to form a board; two to be acting commissioners.
- 10-14. [Obsolete.]
 15. Board may employ agents, etc.
 16. Commissioners have power to make feeders, etc., for proper construction of canals authorized by law, and to take possession of all necessary lands, etc.
 17. Extraordinary repairs, how made.
 18. When such repairs to be made, to be completed as soon as practicable; necessary lands, etc., may be taken possession of.
 19. Public roads may be altered or discontinued, when necessary to make such repairs.
 20. Description of the road altered or discontinued, to be drawn up and filed in town clerk's office.
 21. Passage of road discontinued, etc., not to be obstructed till new road passable.
 22. Alterations heretofore made, to be deemed valid.
 23. When navigation of canal interrupted, injury causing it to be immediately repaired.
 24. Commissioners to erect and keep toll-houses, etc., in repair.
 25. To make regulations concerning the navigation of the canal.
 26. Regulations to be printed and distributed.
 27. To be filed in comptroller's office; proof of their existence.
 28. Portion of canal to be assigned to each acting commissioner.
 29. Duty of each acting commissioner.
 30. Must take duplicate receipts for monies paid by him.
 31. Contracts for making repairs and improvements, to be in writing.
 32. With whom copies of contracts are to be deposited.
 33. Publication of proposals for contracts.
 34. What proposals to contain.
 35. No more than one proposition to be received from any one person, for same contract.
 36. Security to be given by contractor; penalty for violation of contract
 37. When extra allowance to be made contractors.
 38. Materials procured under contract, exempt from execution.
 39. Either of commissioners may draw money to pay contractors.
 40. No commissioner allowed to have in his hands more than 10,000 dollars at one time.
 41. Damages and penalties recovered by commissioners, to be paid to commissioners of canal fund.
 42. Commissioners to account to comptroller, and when; comptroller to report same to legislature.
 43. Commissioners, etc., cannot be held to bail, or taken with a warrant, for any official act.
 44. When commissioners to make their report; its contents.

§ 9. The general care and superintendence of the canals shall continue to be vested in the board of canal commissioners; so many of whom, not exceeding two, as may be annually designated by the board, shall be acting commissioners.

[By art. V, § 3, of the Constitution, as amended in 1877, the office of superintendent of public works is created, and the office of canal commissioner abolished, and it is provided that all laws applicable to the canal commissioners shall be applicable to the superintendent of public works, until changed by the legislature.]

[Sections 10 to 14, relating to the official bonds of the canal commissioners, and the organization, etc., of the board, omitted as obsolete.]

Board ;
acting
commis-
sioners.
20 Barb.,
620.

§ 15. The board may employ such and so many agents, engineers, draftsmen, surveyors and other persons, as they may judge necessary, to enable them to discharge their duties as commissioners, and shall pay such compensation as they shall judge reasonable, to each person so employed.

ART. 2.

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Powers of commissioners; agents, &c.

[By art. V, § 3 of the Constitution, as amended in 1877, all officers employed in the care and management of the canals, except collectors of tolls and those in the department of the state engineer and surveyor, shall be appointed, and may be suspended or removed by the superintendent of public works.]

§ 16. In the construction of every canal of which the construction is or shall be authorized by law, the canal commissioners shall have power, and it shall be their duty, to make all such canals, feeders, locks, dams, aqueducts, and other works, as they shall deem the proper construction of such canal to require; and they shall enter on, and take possession of, and use, all lands, streams and waters, the appropriation of which, for the use of such canals and works, shall, in their judgment, be necessary.

Ib., feeders, &c.
19 Barb., 266; 2 Hill, 247; 71 N. Y., 276; 66 How. Pr., 258.

[L. 1817, 302, § 3.]

§ 17. Whenever, in the opinion of the superintendent of public works, it shall become necessary or expedient to reconstruct any bridge on a change of plan, or make any repairs or improvements on any completed canal such as the opening of new feeders, or the construction of additional locks, dams, embankments, tunnels or aqueducts, and whenever requested so to do by the superintendent of public works it shall be the duty of the state engineer and surveyor to cause the necessary surveys and levels to be taken, and accurate drafts, plans, models or maps as the case may require of the contemplated work, together with an estimate in minute detail of the probable expense to be incurred, and to submit the same to the canal board for their approbation. [*Thus amended by L. 1880, ch. 99.*]

State engineer to make surveys, maps, &c.

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§ 18. If such repairs or improvements shall be directed by the canal board or the legislature it shall be the duty of the superintendent of public works to proceed as soon as circumstances will permit to execute and complete the same, and for that purpose to take possession of and use all lands, waters or streams of which the occupation and use, in his judgment, may be necessary to enable him to discharge such duties. [*Thus amended by L. 1880, ch. 99.*]

Superintendent of public works to execute and complete improvements when directed by canal board.

§ 19. Whenever for the purpose of constructing a canal, or making any extraordinary repairs or improvements, it shall be deemed necessary by the canal commissioner having charge of the work, to discontinue or alter any part of a public road, on account of its interference with the proper location or construction of such work, he shall make, or direct to be made, such discontinuance or alteration.

Altering roads, &c. 31 N. Y., 151, 155.

[L. 1820, 190, § 21.]

§ 20. It shall be his duty to draw up in writing and figures, a true description of all such parts of a public road as shall be so discontinued and new laid, and to file such description in the town clerk's office, of the town in which such parts may be situate, and from the time of such filing, such discontinuance and alterations shall be valid in law.

Proceedings.

[L. 1820, 190, § 21.]

TITLE 9.
Restrictions. § 21. The canal commissioners shall not, however, obstruct the passage of any part of a public road, so discontinued or altered, until they shall have opened and worked, so as to render passable such part of such road as shall have been new laid by their engineer; and the certificate in writing of any justice of the peace in the county where such road shall be situated, that the part so new laid has been so opened and worked, shall be their sufficient justification.

[L. 1820, 190, § 21.]

Former alterations. § 22. Every alteration heretofore made by any engineer, in any public road on either of the canals, shall, from the time of such alteration, be deemed valid in law.

[L. 1820, 190, § 21. See L. 1834, ch. 276.]

Injuries to canals.
71 N. Y., 276;
20 Barb., 620; 42 N. Y., 51; 9 Abb., N. S., 52.
Destruction of boats, when navigation interrupted. § 23. Whenever the navigation of any of the canals shall be interrupted or endangered, it shall be the duty of the commissioners, without delay, to repair the injury causing or threatening such interruption, and for that purpose, they shall have power, by themselves or their agents, to enter upon and use any contiguous lands, and to procure therefrom all such materials as in their judgment may be necessary or proper to be used in making such repairs. And whenever the navigation of any of the canals shall be interrupted or endangered, any commissioner or superintendent may, if in his judgment it is necessary or proper so to do, cut up, destroy or remove any canal boat, vessel or other thing in or partly in the canal, and the damages in consequence thereof shall be assessed in the manner provided by chapter two hundred and eighty-seven of the laws of eighteen hundred and thirty-six. [*Thus amended by L. 1870, ch. 222.*]

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Toll-houses, &c. § 24. It shall be the duty of the canal commissioners, to keep in complete repair, all toll-houses, weighing-scales, offices and other edifices, already built or purchased, for the use of the canals; and at such times and places as the canal board may direct, to erect such further toll-houses, weighing-scales, offices and other edifices, and purchase such ground for the convenience thereof, as may be deemed necessary for the profitable use of the canals.

[L. 1820, 189, § 20.]

To make regulations. § 25. They shall, from time to time, make such rules and regulations, not inconsistent with the laws of the state, in respect to the size and structure of boats, rafts and other floats, on the waters of the canals, and the weighing and inspecting of boats and their lading, and in respect to all matters connected with the navigation thereof, and impose such forfeitures of money, for the breach of such rules and regulations, as they may judge reasonable; but no forfeiture so imposed, shall, for a single offence, exceed the sum of twenty-five dollars.

[L. 1820, 189, § 20. See L. 1835, ch. 21.]

Notice of them. § 26. They shall cause a sufficient number of copies of all such rules and regulations, including the forfeitures for the breach thereof, to be printed, and shall distribute the same to the superintendents of

repairs, the collectors of tolls, and lock-keepers, to be kept in their respective offices for public inspection.

ART. 2

§ 27. All rules, regulations and forfeitures, established by them in relation to the management and navigation of the canals, shall be filed in the office of the comptroller, and a copy thereof, certified by the comptroller, under his hand and the seal of his office, shall be received in all courts of law, as due proof that such rules, regulations and forfeitures were by them established.

How authenticated.

[L. 1827, 224, § 15.]

§ 28. The board shall, from time to time, assign to each acting commissioner, in special charge, the line or portion of the line, of one or more of the canals.

Special charge of canals. 20 Barb., 620.

§ 29. It shall be the duty of each acting commissioner,

Duty of acting commissioners. 1 Hill, 285.

1. To examine frequently and carefully into the state of the canals and works, committed to his charge.

2. To direct and cause to be made, such ordinary repairs, as he shall perceive to be necessary.

3. To superintend and cause to be made, such extraordinary repairs or improvements, as shall be ordered.

4. To make, by himself or a superintendent of repairs, all necessary contracts for the supply of materials and the performance of labor.

5. To inquire into the official conduct of all superintendents of repairs, collectors of tolls, lock-keepers and other subordinate agents, and to receive and hear all complaints that may be preferred against them.

And generally to enforce the faithful execution, by all persons concerned, of the provisions of this title.

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[See L. 1847, ch. 278.]

§ 30. It shall be the duty of each acting commissioner, to take duplicate receipts of all monies, advanced or paid by him.

Receipts.

[L. 1821, 26, § 5.]

§ 31. All contracts for the construction of a canal, and for the making of any repairs or improvements in the canals, directed by the legislature, or canal board, shall be made in writing, and of each contract, three copies shall be executed by the parties.

Contracts.

[The system of repairing canals by contract and the contracting board were abolished by L. 1870, ch. 55.]

§ 32. One of such copies shall be retained by the board of canal commissioners, or the acting commissioner having the charge of such repairs or improvements; another shall be deposited with the comptroller.

Copies of them.

[L. 1825, 401, § 4; L. 1827, 229, § 36; L. 1828, ch. 321, § 3.]

§ 33. Public notice shall be given of the time and place, at which sealed proposals will be received for entering into contracts, under the thirty-first section, which notice shall be published for three weeks in succession in the state paper, and in one or more of the newspapers of each county, in which the work to be performed, or any part thereof, is to be made.

Notice for proposals.

[The same.]

- TITLE 9.**
Requisites of proposals.
- § 34. All proposals for contracts, for which sealed proposals are to be offered, shall be for a sum certain, as to the price to be paid or received; and no proposition which is not thus definite and certain, or which contains any alternative condition or limitation, as to such price, shall be received or acted on.
[L. 1826, 363, § 32.]
- 1b.
- § 35. No more than one proposition shall be received from any one person for the same contract, and all the propositions of the person offering more than one, for the same object, shall be rejected.
[L. 1826, 363, § 32.]
- Security.**
- § 36. Every person who shall enter into any contract for the supply of materials or the performance of labor, on any canal, shall give satisfactory security to the canal commissioners, for the faithful performance of his contract, according to its terms; and if any person, having given such security, shall neglect or refuse to perform his contract, he shall be excluded from any interest in any future contract, in relation to the same object.
[L. 1827, 229, § 35. See L. 1848, ch. 72.]
- Extra allowance.**
96 N. Y., 567.
- § 37. No allowance over and above the contract price shall be made by the canal commissioners to any contractor, unless such extra allowance shall be directed by the canal board.
[L. 1826, 363, § 33. See also Const., art. 7, § 3, as amended in 1862.]
- Certain materi exempt from execution.**
[224]
- § 38. All materials procured, or partially procured, under a contract with the canal commissioners, shall be exempt from execution; but it shall be the duty of the canal commissioners, to pay the monies due for such materials to the judgement creditor of the contractor, under whose execution such materials might otherwise have been sold, upon his producing to them due proof that his execution would have so attached; and such payment shall be held a valid payment on the contract.
[L. 1822, 321, § 6.]
- Payment of contracts.**
- § 39. Either of the canal commissioners may draw upon the commissioners of the canal fund, for any sum to be paid to a contractor, upon his contract; and if a copy of such contract shall have been duly filed in the office of the comptroller, and a receipt of the contractor for such draft shall also be filed in the same office, it shall be the duty of the commissioners of the canal fund to pay the draft.
[L. 1826, 361, § 20; L. 1827, 229, § 36. See L. 1847, ch. 278; L. 1850, ch. 278.]
- Advances to commissioners.**
- § 40. No canal commissioner shall be allowed as such, to have in his hands at any one time, more than ten thousand dollars; and every sum advanced, or received by him, shall be deemed to remain in his hands until its application shall have been properly accounted for to the comptroller.
[L. 1826, 361, § 20; L. 1827, 229, § 36. See L. 1837, ch. 451.]
- Penalties, &c.**
- § 41. In all cases in which suits shall be brought by the canal commissioners, or under their direction, for the recovery of penalties or damages under the provisions of this title, it shall be their duty to keep an accurate account of the recoveries, and of the costs and expenses, and after deducting such costs and expenses, to pay over

the residue of the sums received, to the commissioners of the canal fund, or account for the same with the comptroller. ART 2.

§ 42. It shall be the duty of the canal commissioners to account and settle with the comptroller on or before the fifteenth day of January in each year, for all monies received by them, and each of them, from the commissioners of the canal fund, or belonging to that fund; and such settlement, specifying the sums respectively paid to all contractors, engineers, agents and servants of every description, employed on the canals, and to all persons having received a compensation for damages, and the names of such persons shall, without delay, be reported by the comptroller to the legislature. Accounta.

[L. 1819, 124, § 6.]

§ 43. No acting commissioner, superintendent of repairs, collector or lock-keeper, on any canal, shall be held to bail, or taken by warrant, in any civil suit, for any act done, or omitted to be done by him, in the exercise of his official duties. Certain officers not to be held to bail.

[L. 1820, 190, § 22.]

§ 44. Within twenty days from the commencement of each annual session of the legislature, the canal commissioners shall make their report to the legislature; and in such report shall state the condition of the canals, and all the works and improvements connected therewith, the improvements and repairs made during the past year, or contemplated to be made, and the amount of monies, during the same period, received and expended by them, and each of them, in the discharge of their duties, and shall recommend such measures, in relation to the canals, as they shall deem the public interest to require. Annual report to legislature.

[1825]

[L. 1817, 302, § 2; L. 1827, 239, § 37. See L. 1847, ch. 278; L. 1849, ch. 363.]

L. 1834, Chap. 276 — An act to incorporate the Medina and Darien Railroad Company.

Power of canal commissioners. § 17. The canal commissioners are hereby invested with a general supervisory power over so much of any railroad as passes over any canal or feeder belonging to this state, or approaches within ten rods of such canal or feeder, so far as such power may be necessary to preserve the free and perfect use of the canals or feeders of this state, and necessary for making any repairs, improvements or alterations in the same; and said company shall not construct their railroad over or at any place within ten rods of any canal or feeder belonging to this state, unless said company shall lay before the commissioners aforesaid, a map, plan and profile, as well of the canal or feeder as of the route designated for their railroad, exhibiting distinctly and accurately the relation of each to the other, at all the places within the limits of ten rods as aforesaid; and shall thereupon obtain the written permission of said canal commissioners, with such conditions, instructions and limitation as, in the judgment of said canal commissioners, the free and perfect use of any such canal or feeder may require.

[The remainder of this act is not important in this connection.]

L. 1836, Chap. 384 — An act relative to the Black-Rock harbor.

Piers and warehouses. SECTION 1. The acting canal commissioners are hereby authorized and directed, if in their opinion the public interest shall not be injured thereby, to prescribe the manner in which, and the places where, the owners of lands adjoining the Black-Rock harbor, may build piers and warehouses, or make other erections, in or on said harbor, for the accommodation of lake vessels: Provided that such piers, warehouses and other erections shall be so made as not to interrupt the canal navigation through said harbor, nor otherwise interfere with the proper use of the waters of said harbor for public purposes.

Condition. § 2. The authority hereby given, is on condition that if said piers, warehouses and other erections shall hereafter be found incompatible with the public interest, the same shall be removed when required by the legislature.

[Supplement to Article 2.]

ARTICLE 2^A.

OF THE SUPERINTENDENT AND ASSISTANT SUPERINTENDENTS OF PUBLIC WORKS; OF THE STATE ENGINEER AND SURVEYOR; OF THE DIVISION AND RESIDENT ENGINEERS; AND THEIR POWERS AND DUTIES.

[See Const., art. 5, § 3, as amended in 1877.]

L. 1850, Chap. 377 — An act prescribing the powers and duties of the state engineer and surveyor, and of the engineers employed on public works.

[Sections 1 to 4 were repealed by L. 1862, ch. 69, § 3.]

State engineer to visit all the canals once in each year. § 5. The state engineer and surveyor shall visit and carefully inspect all the canals of this state, at least once in each year, and shall make such additional visits and examinations of the whole or any portion thereof, and shall communicate to the canal board and to the canal commissioners such information and suggestions, from time to time, in relation to the improvement and maintenance of the canals as he may deem the public interest to require.

Before any work to be undertaken, state engineer and surveyor is to cause surveys, maps, etc., to be made and submitted to canal board. § 6. Before any line for the enlargement of the Erie canal, the construction or the improvement of any lateral canal or any sections thereof, not already under contract, shall be finally located, the state engineer and surveyor shall cause such surveys, maps, plans, specifications and estimates of the expense of constructing the prism and banks of the canal, and of the mechanical structures required to be built thereon; or shall in his discretion revise such maps, specifications and estimates of surveys previously made, as will render it practicable readily to determine the line of canal, and the plan of constructing the same, and the kind and plan of the mechanical structures that should be adopted, and shall communicate the same to the canal board, with his opinion in relation thereto, in writing, together with his opinion as to the time when the public interest requires that the construction of such line or portion of the canal should be commenced, and the time when the same should be completed.

Duties of division engineer. § 7. It shall be the duty of each division engineer frequently to pass over and carefully inspect all of the canals embraced in the division under his charge, and to examine and if necessary review all surveys, maps, profiles, admeasurements, plans, specifications and estimates made in reference thereto by any engineer employed on said division, and to see that the engineers and overseers of work employed thereon faithfully perform their duties. The division engineers shall make to the state engineer and surveyor and to the

canal commissioner in special charge of the division, and to the superintendents of repairs, such suggestions in relation to repairs and the plan of making the same as will, in their opinion, most tend to a safe and economical maintenance of the navigation of the canals.

Division engineers to make surveys, maps, etc., of all work contemplated. § 8. The division engineers shall, under the direction of the state engineer and surveyor, make or cause to be made all surveys, maps, plans, specifications and estimates that may be necessary or required by the canal board or canal commissioners to determine the proper location of the line of the canal, or any portion thereof, on their respective divisions, or that may be necessary preparatory to placing any work under contract for construction, and shall transmit a copy thereof to the state engineer and surveyor, who shall upon a due inspection and revision submit the same to the canal board with his approval endorsed thereon, and on obtaining thereon their certificate of adoption, he shall file the same in his office.

Letting and construction of work. § 9. Before any work shall be contracted for on any of the canals of this state, the division engineers shall ascertain or cause to be ascertained with all practicable accuracy the quantity of embankment, excavation, masonry and the quantity and quality of all materials to be used, and all other items of work to be placed under contract, a statement of which, together with maps, plans and specifications corresponding with those adopted by the canal board and on file in the office of the state engineer and surveyor, shall be publicly exhibited to persons proposing for the work to be let. The quantities so exhibited shall be used in determining the value of the propositions received, and after the contracts shall have been awarded, said statement of quantities, together with the maps, plans and specifications and all other papers relating to the work advertised, and which were exhibited as aforesaid, and are necessary to identify the plan and extent of the work so awarded, shall be filed in the office of the state engineer and surveyor, accompanied with the certificate of the division or resident engineer, stating the time and place they were so exhibited. No alteration shall be made in any map, plan or specification adopted by the canal board, and so exhibited, or the plan of any work under contract during its progress, except by the consent and approval of the commissioner and the division engineer, nor unless the description of such alteration and the approval thereof be reduced to writing and be signed by the parties making the same, and a copy thereof shall have been filed in the office of the state engineer and surveyor. Nothing in this section contained shall be construed to authorize any change of plan that shall increase the expense of the work, or create any claims against the state for damage arising therefrom unless a written statement setting forth the objects to be attained by such change and the expense thereof shall have been submitted to the canal board, and their assent at a meeting in which the state engineer and surveyor were present shall have been obtained.

Duties of resident engineers. § 10. It shall be the duty of the resident engineers, under the immediate direction of the division engineers, respectively, to survey, lay out, measure and compute the quantities of all work ordered by the canal board or the canal commissioners, to be surveyed for location, construction or other purposes, to assist the division engineer so far as may be necessary in making maps, plans, specifications and estimates, to see that the work done on the several subdivisions is well and faithfully performed by the contractors, and in all respects strictly according to the terms of the contracts and on the completion of the same, they shall accurately ascertain the quantity of the several items of work done, and the amount at the contract prices, and shall present to the canal commissioner or the division engineer a final statement thereof, in such form duly verified as shall be prescribed by the auditor of the canal department; each resident engineer shall enter, or cause to be entered, in a book which shall be furnished for that purpose by the state engineer and surveyor, all of the field notes and computations of the items of work done on the subdivision under his charge, with such recapitulations, diagrams and other illustrations as may be necessary

to render the same intelligible, together with a statement of the total quantity of each item of work done, and the amount thereof at the contract price, and the aggregate amount at contract prices of the work done by each contractor, which entry shall be made in due form and properly certified by the several engineers who may have made it within three months from the time the final statement mentioned in this section shall have been prepared, and the book or books containing such entries shall, within one hundred days after the completion of the work on each subdivision, be properly indexed and filed in the office of the state engineer and surveyor. The resident engineers shall severally perform such other services in the line of their duties as shall, from time to time, be required by the state engineer and surveyor, or the division engineer in charge of the subdivisions on which they may be located, and, in case of the absence or inability of the division engineers to act, the resident engineer shall discharge the duties of such division engineer so far as relates to the subdivision assigned to said resident engineer.

Duties of assistant engineers. § 11. It shall be the duty of the first assistant engineer, when directed by the resident or division engineer, to lay out and accurately measure and compute the quantities of the several items of work done or to be done in constructing the public work within the limits severally assigned to them, to see that the work is, on the part of the contractors and others connected therewith, faithfully performed, and in all other respects to aid and assist the resident engineer in the discharge of his duties as prescribed in the preceding section of this act, and to perform such other service in the line of his duties as the resident or division engineer may from time to time require.

Services other than mentioned in this act, how performed by resident and first assistant engineers. § 12. Whenever any resident or first assistant engineer shall, by the canal commissioner in special charge of the division upon which they may be located, be required to perform any service in the line of their duty other than is in this act contained, they shall severally perform the same under the supervision of the division engineer, and shall, under the sanction of the commissioner requiring the same, and of the division engineer, be authorized to employ such additional assistants and laborers as may be necessary to enable them to perform such service.

Removal of engineers. § 13. The canal commissioner in special charge of a division shall have power, with the concurrence of the state engineer and surveyor, to remove for cause any engineer employed on such division.

Suspension of engineers. § 14. The canal commissioners in special charge of a division shall have power, with the concurrence of the state engineer and surveyor, to suspend any engineer on such division for misconduct or neglect of duty, and to appoint another to discharge the duties during such suspension. The state engineer and surveyor or commissioner who with the concurrence aforesaid shall suspend any engineer, as aforesaid, shall forthwith report the same to the canal board, with his reasons therefor, and serve a copy of such report on the engineer so suspended. The canal board shall hear the proofs and allegations of the parties, and discharge or retain such engineer, as they may deem right.

Annual report of state engineer. § 15. The state engineer and surveyor shall annually report to the legislature within twenty days after the commencement of its session, the number and compensation of the engineers employed, and that may have been employed during the preceding year, on the public works of this state, designating the number employed on each resident's subdivision, and the length and estimated cost of the work under contract, the amount done and remaining to be done at the contract prices, on said subdivisions respectively. Said report shall also contain such other information in relation to his proceedings under this act, and such suggestions in the line of his duty in relation thereto as he may deem the public interest to require.

Repeal. § 16. So much of all laws and parts of laws as conflict with the provisions of this act, or authorize the appointment or employment of any of the officers

or persons whose appointment is herein before provided for, in any other manner than according to the provisions of this act, are hereby repealed.

L. 1852, Chap. 246—An act to provide for the protection of the navigable waters of Cayuga inlet.

Canal commissioners to take charge of. SECTION 1. The canal commissioners are hereby authorized and required to take charge of so much of the navigable waters of the Cayuga inlet, as are now subject to canal tolls, and to exercise the same power and supervision over them as they are by law authorized and required to exercise over other canals of this state; and shall cause to be removed such obstructions therefrom, and make such improvements therein, as may from time to time be necessary to preserve and keep the channel of said inlet of sufficient depth and capacity to admit the passage of any boats or water craft which may navigate the Erie canal.

Treasurer to pay money from time to time. § 2. The treasurer is hereby authorized and required to pay on the warrant of the comptroller such sum or sums as may from time to time be required to effect the purposes of this act, from any moneys in the treasury not otherwise appropriated; but such sum shall not at any time exceed the aggregate of tolls heretofore collected together with the amount which may be hereafter collected from boats or property passing through said channel.

L. 1859, Chap. 376—An act to provide for the performance of certain duties imposed upon a canal commissioner in cases where he may be disqualified from acting.

When commissioner disqualified, auditor to act. SECTION 1. Whenever, from interest, or having been counsel for any claimant of damages against this state, in the matter of such claim, or being related to such claimant, any canal commissioner shall be disqualified from acting in any case where by law any power or duty is imposed upon such commissioner, or the board of canal commissioners, on filing in the office of the auditor of the canal department the certificate of such commissioner, stating his disqualification, the said auditor is authorized, and it shall be his duty to act in the place of such disqualified commissioner, in the matter of such claim.

L. 1862, Chap. 169—An act relating to the enlargement and completion of the canals of this state, and to reduce the number and regulate the employment of engineers thereon.

[Sections 1 and 2, relating to the enlargement of the canals, are omitted here with the other statutes relating to that subject.]

Number of engineers to be employed on each division of canals; engineers, by whom to be appointed; who to prescribe their duties. § 3. Hereafter, no more than one division engineer and an resident engineer shall be employed upon each division of the said canals. The said division engineer and resident engineer shall be appointed by the canal board, and they shall be practical engineers, and have the certificate of the state engineer as to fitness, capacity and integrity; and the said board shall fix the compensation of such engineers. The state engineer and surveyor shall prescribe and define the duties of the engineers so appointed, and shall assign each division engineer and resident engineer to a division of the canal corresponding with the division of each of the canal commissioners. The first, second, third and fourth sections of the act entitled "An act prescribing the powers and duties of the state engineer and surveyor, and of the engineers

employed on the public works," passed April tenth, eighteen hundred and fifty, are hereby repealed. [*Thus amended by L. 1865, ch. 477.*]

Additional assistance, by whom to be authorized; engineers to file bonds in canal department. § 4. In case it may be necessary to employ, temporarily, additional assistance to aid the engineers in the performance of some specific job of work or duty, the same may be done by the division engineer in charge where the work is to be performed, with the assent of the state engineer and surveyor and the commissioner in charge of the division where the work is to be performed; and the said state engineer and surveyor and canal commissioner shall file a statement in the canal department, containing the names of the persons to be employed, the nature of their duties, severally, and the daily compensation to be paid to each, and the periods during which such employment is to continue. And every engineer appointed by the canal board under this act shall, before entering upon the duties of his office, file in the canal department his bond, duly executed to the people of the state, in such sum and with such surety for the faithful discharge of his duties as the auditor shall approve, and shall take and subscribe the constitutional oath of office, which oath shall be filed in the office of the secretary of state. No money shall be advanced to any engineer on account of services rendered; nor shall any account of moneys disbursed by him be audited until the provisions of this section shall have been fully complied with. [*Thus amended by L. 1865, ch. 477.*]

Duties of. § 5. The services and duties performed by the said engineers shall be such as relate strictly to the repairs and maintenance of the completed canals of the state, and the compensations allowed and expenses incurred under the provisions of this act, shall be paid out of the appropriation for superintendence, collection and ordinary repairs of the canals.

[Section 6 qualifies §§ 1 and 2.]

L. 1865, Chap. 477 — An act to amend chapter one hundred and sixty-nine of the laws of eighteen hundred and sixty-two, so as to designate the official title of engineers.

[Sections 1 and 2 amend L. 1862, ch. 19.]

Rank of engineers. § 3. The engineers appointed by the canal board, under the act hereby amended, shall hereafter rank as division and resident engineers, instead of engineers and assistant engineers; and it shall not be necessary for the board to reappoint the present incumbents in order to confer said rank upon them.

L. 1876, Chap. 385 — An act relating to the appointment and duties of engineers employed on the canals of this state.

State engineer to appoint and remove division and other engineers; grades of officials. SECTION 1. Hereafter the division and resident engineers employed on the canals of the state, and all assistant-engineers and other persons employed to assist them in the performance of their duties, shall be appointed by the state engineer and surveyor. The state engineer and surveyor shall have power to remove any person appointed under this act. The recognized grades of officials appointed under this act shall be as follows: Division engineer, resident engineer, assistant engineer, leveller, rodman, and chainman.

Additional engineers. § 2. In case it may be deemed necessary by the state engineer and surveyor, but not otherwise, at any time to employ additional engineers or other persons to assist the division and resident engineers in the performance of their duties, the same may be done by him with the consent of the canal board, and all appointments to such employment shall be made in the manner prescribed in the first section of this act.

Compensation. § 3. It shall be the duty of the canal board to fix the salary or rate of compensation of every person appointed under this act.

Drafts of division engineer; moneys not to be otherwise drawn. § 4. The division engineer may draw his draft upon the auditor of the canal department for any sum to be advanced to him to meet the expenses of the engineer department on his division of the canals; but every such draft shall be countersigned by the state engineer and surveyor, and if the bond of the division engineer shall have been duly filed in the office of the auditor, and a receipt for such sum shall also be filed in the same office, it shall be the duty of the auditor to pay such draft by drawing his warrant on the treasurer of the state in favor of such division engineer, provided the advances to such division engineer, unaccounted for, shall at no time exceed the sum of five thousand dollars. No money shall hereafter be drawn from the state treasury to meet the expenses of the engineer department, other than those pertaining to the office of the state engineer and surveyor, in any other manner than is herein prescribed.

Division engineers to account; neglect to account; forms and rules. § 5. The division engineers of the several divisions of the canals shall, once in ninety days, beginning on the first day of each fiscal year, render accounts of their disbursements, with sworn vouchers for the same, to the state engineer and surveyor, who shall examine them, and if he finds them correct, he shall forward them, with his approval, to the auditor, who shall audit them; and if any division engineer shall omit to render his account, or his account as rendered be not satisfactory, the auditor shall notify the state engineer and surveyor and the commissioners of the canal fund of the fact, and no further advances shall be made to such division engineer until he shall have satisfactorily explained to the state engineer and surveyor and the commissioners of the canal fund, his omission to render proper accounts. It shall be the duty of the auditor to prepare such blank forms, and to prescribe such rules as may be required to facilitate the rendering and insure the uniformity of the accounts directed to be made by this act.

Absence or inability of division engineer. § 6. In case of the absence or inability to act, of a division engineer, the resident engineer of his division may discharge all the duties of such division engineer.

Oath of office; accounts to be sworn to; bond. § 7. Every person appointed under this act shall take and subscribe the constitutional oath of office, which shall be filed in the office of the secretary of state, and all accounts rendered and estimates made by the division and resident engineers upon which moneys may be drawn from the treasury of the state, must be sworn to by the said division and resident engineers and the assistant engineers, who may be employed to assist them in making the same, in such forms as may be prescribed by the auditor. And every division and resident engineer appointed under this act, shall, before entering upon the duties of his office, file in the canal department his bond, duly executed, to the people of the state, in such sum and with such surety for the faithful discharge of his duties, not exceeding in each case the sum of twenty thousand dollars, as the auditor shall approve. No money shall be advanced to any division or resident engineer, nor shall any account of moneys disbursed by him be audited, until the provisions of this section shall have been fully complied with.

Expenses, how paid. § 8. The expenses of the engineer department, other than those of the office of the state engineer and surveyor, shall be paid out of the funds appropriated by the legislature for the repairs and maintenance of the canals.

Repeal. § 9. So much of all laws and parts of laws as conflict with the provisions of this act or authorize the appointment or employment of the officers or persons whose appointment or employment is herein provided for, are hereby repealed.

Names of engineers to be published. § 10. It shall be the duty of the auditor to publish quarterly in the state paper the names of the engineers employed under the grade of resident engineer.

L. 1879, Chap. 152—An act to authorize the permanent appropriation of land for the repair of the banks, prisms and other structures of the canals.

Appropriation of land. SECTION 1. Whenever, in the judgment of the superintendent of public works, any of the earth structures of the canals of the state need to be raised, widened, strengthened or otherwise improved, the superintendent of public works is hereby authorized to enter upon and permanently appropriate, to the use of the state, so much of any lands, adjacent to the canals, as may be necessary to provide earth and gravel for such purposes.

Damages. § 2. Claims for damages, by reason of the appropriation of land under section one of this act, may be adjusted and paid by the superintendent of public works, if the amount thereof can be agreed upon with the owner or owners of land so appropriated; otherwise said claims shall be heard and determined, in the same manner as other claims now are, by the board of canal appraisers.

L. 1879, Chap. 331—An act to facilitate the transaction of public business by authorizing the administration of oaths in matters pertaining to canal business.

Superintendent of public works to designate clerks and special agents to administer oaths. SECTION 1. The superintendent of public works is hereby authorized to designate two clerks in the office of said superintendent in the city of Albany, and one clerk in the office of each assistant superintendent of public works, on the three divisions of the canals, and one or more special agents in said department of public works, who shall have power to administer oaths in any county of the state in matters pertaining to canal business only, where oaths now are, or may be required by law to be taken, and oaths so taken and subscribed before said clerks or special agents shall be of like force and effect as though taken before a notary public in the county where such oath is administered; and the services rendered in pursuance of this act shall be without any fees or compensation therefor. [*Thus amended by L. 1885, ch. 92.*]

To file signature and oath. § 2. Each clerk or special agent so designated shall, before entering upon the discharge of the duty created by this act, file his signature with the comptroller of the state and his oath of office with the clerk of the county in which he resides. [*Thus amended by L. 1885, ch. 92.*]

[L. 1885, ch. 92, § 3. All acts or parts of acts inconsistent with this act are hereby repealed.]

L. 1880, Chap. 493—An act defining the powers and duties of the superintendent of public works.

To furnish tools, materials and labor for canals. SECTION 1. The superintendent of public works shall have the power, and it shall be his duty, to provide all necessary tools, materials and labor for the repair and navigation of the canals, and for the construction and improvement of the canals. The superintendent shall make payment monthly for all tools, materials and labor provided by him for account of the canals; payment therefor shall be made on or before the fifteenth of every month for tools, materials and labor provided for the preceding month.

May subdivide and make rules and regulations. § 2. The superintendent of public works shall have the power to divide the canals into such subdivisions or sections as he may deem advisable, and make all necessary rules and regulations for the government of all employees engaged by him in the repair and navigation of the canals, and in the construction and improvement of the canals, also all necessary rules and regulations to provide for the payment for tools, materials and labor, and to fix the compensation for the services of all officers and employees appointed by

him when the salary is not fixed by law. The schedule of prices when fixed shall be filed with the auditor of the canal department.

Advances, when to be made by auditor. § 3. Before any advance of money shall be made to a superintendent of canal repairs, he shall make out a detailed statement, covering a period of two months, in such form as the superintendent of public works shall prescribe, of the several proposed objects of expenditure on the line of canal under his charge. After the said estimates are filed in the office of the auditor of the canal department, with the certificate of approval thereon of the superintendent of public works, the auditor of the canal department shall make advances thereon, provided that such advances shall not exceed the amount certified by the superintendent of public works. [*Thus amended by L. 1881, ch. 27.*]

Construction or improvement work; state engineer and surveyor to act with superintendent when required. § 4. When construction or improvement work shall be ordered by the legislature or canal board to be done upon any of the canals of this state, the state engineer and surveyor shall make, or cause to be made, all surveys, maps, plans, specifications and estimates that may be required by the canal board, or by the superintendent of public works, to determine the proper location of the line of the canal, or any portion thereof, or that may be necessary preparatory to commencing any work of construction or improvement; and shall transmit a copy thereof to the superintendent of public works, and to the canal board, with his approval indorsed thereon. On obtaining thereon the certificate of adoption of the canal board, he shall file the same in his office, and a copy thereof in the office of the superintendent of public works. Whenever the superintendent of public works shall require the services of an engineer upon any portion of the canals undergoing repairs, or upon any construction or improvement work, the superintendent of public works may call upon the state engineer and surveyor for the assignment of an engineer. It shall be his duty to make such assignment upon such requisition. The state engineer and surveyor shall perform all such duties in relation to the repair of the canals, and in the construction and improvement of the canals, as shall be required by the superintendent of public works.

Power of superintendent to make rules and regulations. § 5. The superintendent of public works shall have full power to make and promulgate all needful rules and regulations for the safe and speedy navigation, and for the protection and maintenance of the canals and the structures thereof. The superintendent of public works, his deputies, superintendents or foremen of sections and lock-tenders appointed by him shall possess all the statutory power now possessed by superintendents of canal repairs and lock-tenders, and may arrest, anywhere within the jurisdiction of their office, all offenders under this section, and convey and deliver them to the proper officers or magistrates, to be proceeded against according to law; and, when it shall be necessary, the said officers are hereby empowered and authorized to command and have the assistance of any person upon whom they may call in making such arrest.

Repeal. § 6. All laws and parts of laws in conflict with any provisions of this act are hereby repealed.

L. 1883, Chap. 244 — An act in relation to the superintendent of public works.

Superintendent's annual report. SECTION 1. The superintendent of public works shall hereafter annually, on or before the fifteenth day of February in each year, report to the legislature the trade and tonnage carried or transported upon the canals of this state during the preceding season of navigation.

Master of boat to deliver statement as to lading; penalty for refusal; proviso as to weighing boat. § 2. It shall be the duty of every master of any boat or float, or of the person or persons in charge of the same, upon the request of any person designated by said superintendent of public works, to gather the statistics required to be reported by this act, to deliver to such person a true bill of the quantity and

description of the lading of such boat or float, specifying the place from which it departed and to which it is destined. In case of refusal or violation of the provisions of this section, a penalty of twenty-five dollars is imposed, to be collected in the name of the state of New York, by the persons designated to gather statistics, to be accounted for and paid over to the state treasurer. Provided, that the master or person in charge of any canal boat may require that such boat and its load be weighed, at some weigh-lock, to be fixed by the superintendent of public works, and to receive duplicate certificates of the weight thereof, on payment of such reasonable fee, to be fixed by said superintendent, as will reimburse the state for the actual expense thereof; and provided further, that said superintendent may, at any time, require any such boat or boats and load to be so weighed.

§ 3. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

TITLE 9.

ARTICLE THIRD.

OF THE APPRAISEMENT OF DAMAGES.

[The statute abolishing the office of canal appraiser and the board of state audit, creating the board of claims, and defining the powers and duties of that board (L. 1883, ch. 205) together with other subsequent statutes relating to the subject, will be found in chap. 8, tit. 8^a, *ante*. The following provisions are retained, as many of them are doubtless applicable to the board of claims, and except where the case is very clear, it is not for the editor to decide, what provisions are repealed by implication.]

- Sec. 45. Number of canal appraisers; to take oath.
 46. To appraise value of private property appropriated to public purposes.
 47. To meet in the vicinity of premises, and hear evidence.
 48. Claimants when and how to apply; consequence of neglect.
 49. Claims for former damages, when to be exhibited.
 50. Every decision of appraisers to be entered in a book kept for purpose.
 51. A transcript of entry to be recorded in clerk's office of county where premises situate.
 52. Fee simple of premises appropriated, vested in state.
 53. When damages appraised exceed benefits, commissioners to pay excess; in case of appeal, not to pay until final decision on the appraisement is had.
 54. Appraisers to be paid \$3 a day.
 55. Claimant and commissioners may appeal from appraisers to supreme court.
 56. Proceedings on appeal.
 57. Appraisers to make return to appeal.
 58. Acting commissioners, engineer, or superintendent of repairs, may fix, by agreement, amount of damages in certain cases.
 59. When owner and commissioner, etc., cannot agree, each to name a person, and they to name a third, who are to appraise damages.
 60 & 61. If owner refuse to name an appraiser, a judge of county court to appoint one for him.
 62. Same proceedings when commissioner, etc., refuses to appoint an appraiser.
 63. Appraisers to take oath; their decision conclusive.
 64. To make certificate; commissioners to pay amount certified.
 65. Payment, or offer to pay amount, to discharge commissioners from any further liability.
 66. When party claiming damages to pay costs of proceedings, and when commissioners.
 67. Appraisers so appointed, to be paid \$1.50 per day.

§ 45. There shall continue to be appointed two officers, by the name of canal appraisers, who being associated with any acting canal commissioner, shall be the appraisers of damages, in the cases hereinafter specified. The oath or affirmation of office, taken by the canal appraisers, shall be filed in the office of the secretary of state.

Appraisers.

§ 46. When any lands, waters or streams, appropriated by the canal commissioners, to the use of the public, shall not be given or granted to the state, it shall be the duty of the appraisers to make a just and equitable estimate and appraisal of the damages, and benefits, resulting to the persons interested in the premises so appropriated, from the construction of the work for the purpose of making which, such premises shall have been taken.

ART. 3.
 Their duty
 2 T. & C.,
 275; 69 N.
 Y., 242; 66
 How Pr.,
 360; 42
 Hun, 292;
 96 N.Y., 244.

[L. 1817, 302, § 3.]

§ 47. It shall be their duty, for that purpose, to meet at such times and places as they may deem necessary, and as nearly in the vicinity of the premises, as conveniently may be, and hear such proper and relevant evidence as shall be offered; and they are, for that purpose, empowered to administer oaths to witnesses.

To meet,
 &c.

[226]

[See L. 1829, ch. 368, *post.*]

§ 48. Every person interested in premises so appropriated, and every person who shall claim to have sustained damages by reason of the temporary appropriation of his lands or waters, or any injury caused by the canals of this state or the works connected therewith, if he intend to claim such damages, shall within one year after such premises, lands or waters have been taken permanently, appropriated or temporarily occupied, and within one year after jurisdiction shall be conferred upon the canal appraisers by the legislature to hear such other injury, file in the office of the canal appraisers a detailed statement of his claim in writing, signed by himself, his guardian or his agent, specifying in as particular a manner as the nature of the case will admit, the extent of his interest in the premises appropriated, and the nature and amount of damages, which claim shall be verified in the same manner as pleadings are now required by law to be verified. [*Thus amended by L. 1866, ch. 836, sub. nom., § 84.*]

Statement
 of claim
 for dam-
 ages, &c.,
 to be filed.
 4 Hun, 798.
 4 N. Y., 68;
 9 Barb.,
 496; 15
 Barb., 627;
 63 N. Y.,
 348; 66
 How. Pr.,
 380; 97 N.
 Y., 572; 106
 N. Y., 246

[See L. 1836, ch. 287; L. 1829, ch. 368; L. 1855, ch. 535.]

§ 49. No claim for damages, for premises that shall have been appropriated to the use of a canal, at any time before this chapter shall be in force, shall be received by the appraisers, unless it shall be exhibited within one year after this chapter shall become a law; and the premises so appropriated shall be deemed the property of the state; and no claims, other than those so exhibited, shall be paid without the special direction of the legislature.

Former
 damages.
 11 N. Y.,
 318; 4 N.Y.,
 68; 15
 Barb., 643.

§ 50. A regular entry of every determination and appraisal made by the appraisers, certified and signed by the appraisers making it, and containing an apt and sufficient description of the premises so appropriated, the names of the persons interested, and the sums estimated to each, for benefits and damages, shall be made in a book kept for that purpose, by the canal commissioners.

Decisions
 to be
 entered.
 15 Barb.,
 641; 13
 Hun, 17; 96
 N. Y., 244.

[See L. 1817, 302, § 3; L. 1829, ch. 368; L. 1836, ch. 287; L. 1849, ch. 352.]

§ 51. A transcript of every such entry, signed by the appraisers, shall be recorded in the clerk's office of each county in which the premises appropriated shall, in whole or in part, be situated. [*Thus amended by L. 1855, ch. 535.*]

Copy evi-
 dence.
 13 N. Y., 244.

TITLE 9.

Right of
state.
15 Barb.,
643; 36
Barb., 109;
31 N. Y., 151;
40 Hun, 230;
42 Hun, 202.
Payment
for dam-
ages.
43 N. Y., 416;
62 Barb.,
279; 66
How. Pr.,
360.

(227)

Pay of ap-
praisers.

Appeal.
2 Hill, 347.

Proceed-
ings.

Damages
settled by
agreement.
13 N. Y.,
238.

§ 52. The fee simple of all premises so appropriated, in relation to which, such estimate and appraisal shall have been made and recorded, shall be vested in the people of this state.

[L. 1817, 302, § 3.]

§ 53. If the damages so estimated and appraised, shall exceed the benefits, it shall be the duty of the canal commissioners to pay the amount of such excess of the damages, to the persons appearing, by the determination of the appraisers, to be thereto entitled; but no such payment shall be made, where an appeal or writ of error shall be prosecuted by the canal commissioners, until a final decision on the appraisal shall have been had.

[L. 1817, 302, § 3; L. 1827, 230, § 48.]

§ 54. Each appraiser, for each day's actual attendance in the discharge of the duties of his office, shall receive the sum of three dollars, to be paid out of the treasury, and charged to the canal fund.

[L. 1825, 400, § 5. See L. 1836, ch. 287.]

§ 55. Every person having exhibited a claim for damages to the appraisers, and the canal commissioners where they shall deem the interests of the state to require it, may enter an appeal from the decision of the appraisers to the supreme court, who shall proceed to reverse, affirm or modify the appraisal, as in their opinion justice shall require; but in no case shall they allow a larger sum for damages, than shall have been demanded by the party entitled thereto, in his claim exhibited to the appraisers.

[Abrogated by L. 1829, ch. 368, § 3. See L. 1883, ch. 205, *ante*, pp. 538, etc.]

§ 56. Every such appeal shall be made in writing, stating briefly the grounds on which the appeal is made: if made by the canal commissioners, one copy of the appeal shall be served on the canal appraisers and another on the party claiming damages, his guardian or agent, either personally or by leaving the same at its usual place of abode; if made by the party claiming damages, one copy of the appeal shall be served on the appraisers, or one of them, and another on the canal commissioners. In all cases the appeal must be made and the proper copies served within three months, from the time that the decision appealed from shall have been made and entered.

[Probably §§ 56 and 57 were abrogated by L. 1829, ch. 368. See now L. 1883, ch. 205.]

1b.

§ 57. The appraisers shall make a return, in writing, to every appeal so served on them, and shall insert and state therein a copy of the claim for damages exhibited to them, the evidence produced or offered before them, and the grounds and reasons of their determination.

[See note to last section.]

§ 58. When damages shall be claimed by the owner of any land which the canal commissioners shall have occupied for temporary purposes, or on which they shall have entered for the purpose of obtaining materials for repairs, the acting commissioner on the line of the canal nearest to which the land shall be situate. or any engineer or superintendent of repairs authorised by him. may fix by

agreement the amount of damages which such owner ought to receive. ART. 3

[L. 1820, 183, § 3.]

§ 59. If an agreement can not be made, the owner shall select one discreet freeholder of the county in which the land is situate, having no interest, direct or indirect, in the damages claimed, and the canal commissioner, engineer or superintendent, another; and the two thus chosen shall select a third to act with them in appraising the damages so claimed. Reference.

[Apparently §§ 59 to 66 of this title were abrogated by L. 1836, ch. 287, *post*. Such was the practical construction at the canal department. See now L. 1883, ch. 205.]

§ 60. If the owner shall refuse or neglect to appoint an appraiser, such canal commissioner, engineer or superintendent shall serve upon him a notice, stating the name of the appraiser appointed by himself, and requiring such owner to make a similar appointment within two days thereafter, and if within that time no such appointment shall be made and signified, such commissioner, engineer or superintendent shall apply to a judge of the county court of the county where the lands are situate, to appoint an appraiser in behalf of such owner. Proceed-
ings.
3 Hill, 599.

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[See note to § 59.]

§ 61. The judge to whom such application shall be made, upon due proof of the service of such notice, shall, in writing, appoint an appraiser in behalf of the owner, who shall have the same powers as if appointed by the owner himself. Ib.

[See note to § 59.]

§ 62. The two last preceding sections shall be construed as also prescribing the course to be pursued by the owner of the lands, where the refusal or neglect to appoint an appraiser, shall proceed from such canal commissioner, engineer or superintendent. Ib.

[See note to § 59.]

§ 63. The appraisers shall, before they enter on the duties of their trust, take the oath prescribed by the Constitution of this state, before any person authorised to administer oaths; they shall then proceed to enquire into and assess the damages so claimed, and their determination, or that of any two of them, as to the amount of damages that ought to be paid, shall be conclusive. Ib.

[See note to § 59.]

§ 64. The appraisers making such determination, shall make a certificate thereof, under their hands and seals, and the amount of damages thus certified, (the costs, when not payable by the canal commissioners being deducted.) shall be paid by the canal commissioners to the person appearing by such certificate to be entitled thereto, within ten days after such certificate shall have been received by the canal commissioners, or as soon thereafter as they shall be in funds. Ib.

[See note to § 59.]

§ 65. Proof of such payment, or of the offer thereof, in case the party entitled thereto, shall decline to receive the same, shall forever discharge the canal commissioners and all persons employed by Claim, how
barred.

TITLE 9. them, from all claims for entering upon and occupying such lands, and for taking and using the materials procured therefrom.

[See note to § 59.]

Costs, how paid.

§ 66. If the amount of damages so certified shall, in any case, not exceed the sum offered for such damages by such acting canal commissioner, engineer or superintendent, before the appointment of the appraisers, then the costs of all the proceedings after such offer, shall be deducted by the canal commissioners from the amount of damages certified; but if such amount shall exceed such previous offer, then all such costs shall be paid by the commissioners, in addition to the damages certified.

[See note to § 59.]

Fees of appraisers.

§ 67. Each of such appraisers shall be entitled for his services, to the sum of one dollar and fifty cents per day.

L. 1829, Chap. 368 — An act in relation to the appraisal of damages on the canals, and for other purposes.

Powers and duties of appraisers. SECTION 1. It shall be the duty of the canal appraisers personally to view the premises on which damages shall be claimed, and to meet at such times and places as they may deem necessary, and as nearly in the vicinity of the premises as conveniently may be, and hear such proper and relevant evidence as shall be offered, and direct the attendance of witnesses in behalf of the state, if in their opinion the interest of the state shall require it; and they are for that purpose empowered to administer oaths to witnesses; and wilful false swearing before the said appraisers, is hereby declared perjury.

Claims to be entered in a book. § 2. It shall be their duty to enter in a book to be kept for that purpose, the nature and extent of all claims on which they shall pass, the items on which allowances are made, and the several amounts allowed, and the items on which no allowance is made; and they shall enter at length the testimony taken, and the grounds and reason for their decision.

[The remainder of this statute relates to appeals to the canal board, and is clearly abrogated by L. 1883, ch. 205, except, perhaps, §§ 9 to 12 which are in the statutes following art. 4 of this title.]

L. 1830, Chap. 293 — An act in relation to the appraisal of damages on the canals.

Lands overflowed. SECTION 1. When any lands are overflowed by the erection of any dam by the canal commissioners on any river or stream connected with the public works, it shall be the duty of the canal appraisers to make a just and equitable appraisal of the damages sustained by the owners of such lands.

105 N. Y., 246, 254.

Lands used for public purposes. § 2. The existing laws in relation to the appraisal and payment of damages, where lands are appropriated by the canal commissioners to the use of the public, shall apply to the appraisal of damages sustained by the owners of the lands mentioned in the foregoing section.

105 N. Y., 246, 254.

[Section 3 omitted as temporary.]

L. 1836, Chap. 287 — An act in relation to the appraisal of damages on the canals, and for other purposes.

[All of this statute is clearly abrogated by L. 1883, ch. 205, except, perhaps, the following sections.]

Lands, etc., used for temporary purposes. § 10. When damages shall be claimed by the owner of any lands, waters or streams, which the canal commissioners shall have occupied for temporary purposes, in the construction or improvement of any state canal, or other works connected therewith, or on which they shall have entered for the purpose of obtaining materials for the construction or improvement of such canal, or other works connected therewith, such damages, if not settled by agreement, shall be appraised by the canal appraisers.

11 Barb., 387; 4 Denio, 356.

Proceedings. § 11. The proceedings in relation to the appraisal of such damages shall be, in all respects, the same as the proceedings in relation to the appraisal of damages for lands, streams or waters appropriated by the canal commissioners to the use of the public; except that no transcript of such appraisal shall be recorded in the clerk's office of any county.

11 Barb., 387; 4 Denio, 356.

L. 1849, Chap. 352 — An act in relation to the canals and canal damages.

Land when to be surveyed and taken. SECTION 1. Whenever any tract or parcel of land shall be divided by the location or enlargement of any of the canals of this state, and the canal board shall be of opinion that it is necessary for the public use, to take and appropriate either portion of such land, the canal commissioner shall cause a survey and map of such portion of such land to be filed in the office of the clerk of the county where such land is situated and thereupon the title to such portion of land shall vest in the state in the same manner as other land taken by the state for the construction of the canal.

Compensation, how made to owner. § 2. The owner of any land taken by the state as provided in the last section shall be entitled to compensation and damages for the lands so taken, to be ascertained and appraised in the same manner as for lands taken and appropriated for the construction of the canal.

Lands taken for canals may be sold. § 3. Whenever the canal board, shall by resolution determine that any lands taken for the purposes of the canal, may be sold beneficially to the state, the commissioners of the land-office may sell, grant, and convey the right, title, and interest of the state in such lands and the proceeds of such sale shall be credited to the fund appropriated for the construction of the canal for which such lands were taken.

13 Hun, 17.

[The remainder of this statute is abrogated by L. 1883, ch. 205.]

L. 1863, Chap. 194 — An act to provide for the payment of interest on certain canal drafts, certificates, awards for damages and estimates for work done on the canals of this state.

Claims to draw six per cent interest. SECTION 1. All canal commissioners' drafts and certificates, and all estimates of engineers, whether final or monthly, made, given or issued since the first day of January, eighteen hundred and sixty, for work done and materials furnished for the construction of any of the canals of this state, and all awards made by the canal appraisers, the canal board or canal commissioners, for damages, shall be entitled to draw interest at the rate of six per cent per annum after sixty days from the date thereof, for the period during which

payment of such drafts, certificates, estimates and awards has been or shall be delayed or postponed by the state, in consequence of the non-appropriation of funds to pay such drafts, certificates, estimates and awards, but such interest shall cease whenever the auditor of the canal department shall give notice in the state paper that funds have been provided to pay the claims mentioned in this act.

Out of what fund paid. § 2. The interest authorized to be paid by this act shall be payable and paid out of any moneys appropriated or to be appropriated for the payment of the drafts, certificates, estimates and awards above specified.

Limitation of the act. § 3. The provisions of this act shall not be deemed, taken or adjudged to alter, modify, change or repeal the provisions of any law heretofore passed, authorizing the payment of interest by the state, and, notwithstanding the provisions of this act, no interest shall be paid upon the drafts, certificates, estimates and awards made, dated, issued and given by any canal commissioner engineer, the canal appraisers or canal board, since the first day of January, one thousand eight hundred and sixty-three.

L. 1870, Chap. 321 — An act to provide for the appraisal of canal claims against the state.

Canal appraisers to hear and determine claims for damages; awards to be subject to appeal. SECTION 1. Jurisdiction is hereby granted to and conferred upon the canal appraisers to hear and determine all claims against the state of any and all persons and corporations for damages alleged to have been sustained by them from the canals of the state, or from their use and management, or resulting or arising from the negligence or conduct of any officer of the state having charge thereof, or resulting or arising from any accident or other matter or thing connected with the canals; but no award shall be made unless the facts proved shall make out a case which would create a legal liability against the state were the same established in evidence in a court of justice against an individual or corporation; and in case such legal liability shall be satisfactorily established, then the appraisers shall award to the claimants such sum as shall be just and equitable, subject, however, to the right of appeal to the canal board in all cases, in the manner now provided by law; provided that the provisions of this act shall not extend to claims arising from damages resulting from the navigation of the canals.

58 N. Y., 416; 63 N. Y., 348; 16 Abb. N. C., 429; 97 N. Y., 572; 99 N. Y., 284; 104 N. Y., 562; 105 N. Y., 159, 229, 246, 254.

Claims when to be filed; canal appraisers to employ counsel. § 2. The claimants shall file their claims in the office of the canal appraisers within two years from the time said damages shall have accrued, but claims for damages which shall have accrued more than one year prior to the passage of this act shall be filed within one year from the date hereof. The canal appraisers are hereby authorized and required to employ counsel on behalf of the state, on the hearing of such claims, as may be necessary to protect the interests of the state. All acts or parts of acts inconsistent with this act are hereby repealed.

To prescribe rules, may compel attendance of witnesses; administer oaths and examine witnesses by commission. § 3. The said board of canal appraisers shall prescribe rules as to the form and manner in which claimants shall make out and verify their statement of claims; and they shall provide a general rule for the taking of evidence when the witness shall not be examined orally before said board, and for reducing to writing and preserving said evidence when taken. The said board is hereby authorized to issue subpoenas for the attendance of witnesses, and shall have power to compel their attendance by attachment, and to punish them for contempt, in the same manner as is now provided by law in relation to courts of record; and the said board shall also have power to administer oaths to witnesses and to issue commissions for the examination of witnesses residing out of the state.

L. 1880, Chap. 161 — An act conferring upon the board of canal appraisers the power to allow amendments to claims.

Appraisers have power to allow amendments to claims. SECTION 1. Power is hereby given the board of canal appraisers in furtherance of justice, without terms, to allow amendments to claims now or hereafter filed in their office, at the same time and in the same manner as amendments are allowed to pleadings in the supreme court, but no additional claim for damages shall be allowed under this act; provided, however, that no claim barred by the provisions of section two of chapter three hundred and twenty-one of the laws of eighteen hundred and seventy shall be revived under or by virtue of this act.

ARTICLE FOURTH.

ART. 4

[339]

OF THE CANAL BOARD, THEIR POWERS AND DUTIES.

SEC. 68 & 69. Canal board, their powers and duties.

70 & 71. [Abrogated.]

72 & 73. Board may remit forfeitures, and when.

74. When estimated repairs on canals less than \$30,000, board to execute them; when more, to report plan and estimate to the legislature before making them.

75. When board may sell or lease, for term of years, surplus water, to the highest bidder.

76-78. [Abrogated.]

§ 68. There shall continue to be a canal board, who shall possess the powers and discharge the duties, enumerated in this title, or which shall hereafter be by law enacted or declared.

Powers and duties
29 N. Y.,
534

[L. 1826, 360, § 4.]

§ 69. They shall have power to appoint so many superintendents of repairs, and collectors of tolls, on the canals, as they may deem necessary, to supply all vacancies that may occur in those offices, to remove any so appointed when they judge such removal proper, and to determine the amount of compensation which they shall respectively receive; but no compensation exceeding one thousand dollars for any one year, shall be allowed to any superintendent.

Id.
Appointment of
officers,
&c.
27 N. Y.,
337; 29 N.
Y., 538.

[L. 1826, 360, § 5; L. 1827, 224, § 13. See L. 1841, ch. 160.]

[Sections 70 and 71, relating to tolls, are omitted as obsolete.]

§ 72. The canal board shall have power to remit, either absolutely, or upon such conditions as they shall prescribe any forfeitures that may be incurred, by a violation of any of the provisions of this title, or of any of the rules and regulations established by themselves, or the canal commissioners.

Remission
of penal-
ties.

§ 73. No such forfeiture shall, however, be remitted, unless on the petition, in writing, of the party liable thereto, supported by due proof of the facts, upon which the claim for a remission shall be founded, and every such petition, with the accompanying proof, and the order of the board thereon, shall be preserved and filed in office of the comptroller.

Proceed-
ings.

[See L. 1837, ch. 45.]

§ 74. Whenever the canal board shall have received from the canal commissioners, the plan of any extraordinary repairs or improvements on the canals, and an estimate of the expense thereof, if such

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Estimates
for repairs.
57 N. Y.,
496.

TITLE 9. estimate shall not exceed the sum of thirty thousand dollars, they may direct such repairs or improvements to be made; but if the estimated expense shall exceed that sum, they shall report the plan and estimate, together with their opinion thereon, to the legislature.

Surplus
waters.

§ 75. Whenever, in the opinion of the board, any water may be spared from any state canal, or works connected therewith, without injury to the navigation or safety of such canal, and the persons entitled to the first privilege of taking such water, shall not avail themselves thereof, or there shall be no persons so entitled, the board may order a sale of such surplus water, for a term of years, in their discretion, to the person who shall bid the highest annual rent therefor.

[L. of 1825, 399, § 3; L. 1826, 363, § 31.]

[Sections 76 to 78 were abrogated by L. 1849, ch. 348, and Const., art. VII, § 3.]

L. 1829, Chap. 368 — An act in relation to the appraisal of damages on the canals, and for other purposes.

[Sections 1 and 2 are in the statutes following article 3 of this title; sections 3 to 8 are obsolete.]

Swearing witnesses. § 9. Any member of the canal board is hereby authorised to administer oaths to witnesses on all matters which may be examined before said board; and wilful false swearing before said board is hereby declared to be perjury.

Canal board may require the attendance of witnesses. § 10. The canal board may require the attendance of witnesses before them on the part of the state, if in their opinion the interests of the state require it; and for that purpose they may issue subpoenas, to be signed by their president for the time being, which shall be served by any sheriff or constable by said board thereunto required, and every person duly subpoenaed to attend before said board, who shall wilfully neglect to obey such subpoena, shall forfeit fifty dollars, to be recovered with costs of suit, before any court having cognizance thereof.

Subpoenas. § 11. The canal board may allow and direct the canal commissioners, or commissioners of the canal fund, to pay to any officer such board may require to serve subpoenas, or to witnesses attending in pursuance of such subpoena, such sum as they may deem just and reasonable for such service or attendance.

Repeal. § 12. So much of title nine of chapter six of the first part of the Revised Statutes, as is inconsistent with this act, is hereby repealed.

[Evidently an error for title 9 of chapter 9.]

L. 1835, Chap. 21 — An act in relation to the canals.

Rules to be made by canal board. SECTION 1. All such rules and regulations in relation to the canals, as are now authorized by sections twenty-five, one hundred and forty-eight, one hundred and forty-nine, and one hundred and eighty-eight, of title nine of chapter nine of the first part of the Revised Statutes, to be made by the canal commissioners, or the commissioners of the canal fund, may hereafter be made by the canal board, with the like penalties and forfeitures as are now provided in said title.

L. 1840, Chap. 201 — An act to authorize the canal board to grant a rehearing of any case they are authorized to adjudicate.

SECTION 1. The canal board are hereby authorized to grant a rehearing, in any case they now are, or may hereafter be, authorized to adjudicate, whenever, in

their judgment, the justice of the case may require it; but no party shall be entitled to but one rehearing, and the adjudication upon such rehearing shall be final and conclusive; but no such rehearing shall be granted, unless application in writing shall be made therefor, within sixty days after such case shall have been adjudicated by the said board.

3 Hill, 599.

L. 1840, Chap. 292 — An act relating to the powers and duties of the canal board.

Rights may be granted to erect buildings, etc., on dams. SECTION 1. Whenever the canal commissioners shall construct, and in every case where they have heretofore constructed any dam, pier, mole or other work in any canal, lake, river or other body of water, the canal board is hereby authorized and empowered to grant permission to such extent and on such terms, conditions and stipulations as said board may deem proper, to any person to erect on such dam, pier, mole or other work, any warehouse, mill or other building, suited and intended to be used for commercial or manufacturing purposes, or for any purpose incidental and auxiliary thereto, and to use such amount of water power created by such dam, pier, mole or other work, as may, in the opinion of the canal board, be so erected and used without injury to such dam, pier, mole or other work, and without detriment or obstruction to the public use thereof, or to the navigation of such canal, lake, river or other body of water therewith connected; but such permission, as aforesaid, shall not be granted in any case other than the pier in the Niagara river at Black Rock, to any person who is not the owner of the land over which the water to be used flows, or the owner of the land adjoining the river or other stream of water at the place where any such dam, mole or other work is or shall be erected.

Orders to be made and entered on the minutes at full length; lease. § 2. Whenever the canal board shall grant any permission under this act, such permission shall be expressed by a resolution of said board entered at full length on its minutes, and including all such terms, conditions and stipulations as the board may deem expedient, and such permission shall be executed by a written lease, in duplicate, to be signed by the comptroller in the name of the people of the state of New York, and by the lessee on the other part, and one duplicate of such lease shall be deposited in the canal room for the use of the canal board, and the other duplicate shall be delivered to the lessee; and a copy thereof, or of the resolution aforesaid, certified by the clerk of the canal board, shall in all cases be evidence equally and in the same manner as the original.

Buildings, where and how to be constructed. § 3. Every building erected by the permission of the canal board under this act shall be erected on such part of any dam, pier, mole or other work, and shall be constructed on such plan, and shall not exceed such dimensions, as may receive the approval and consent of the board of canal commissioners, and be by them specified in a written resolution, to be entered at full length in the minutes of that board, and a copy of such resolution certified by the secretary of said board, with the written assent of the lessee thereto annexed, shall be delivered by the said secretary to the clerk of the canal board, to be deposited in the canal room before the delivery of the lease mentioned in the preceding section. A copy of such resolution of the board of canal commissioners, certified by the secretary thereof, shall in all cases be evidence equally and in the same manner as the original.

Surplus waters. § 4. This act shall not impair the restriction as to leasing surplus waters, made by joint resolution of the senate and assembly, passed April 25, 1831.

L. 1841, Chap. 160—An act respecting the powers and duties of the canal board and the commissioners of the canal fund.

[Section 1, relating to tolls, is obsolete.]

Provision as to extra allowance to contractors. § 2. No petition under the fourth article of the ninth title and ninth chapter of part first of the Revised Statutes, for extra allowance to any contractor for work performed on any canal before the passage of this act, shall be received or acted upon by the canal board, unless it shall be presented within one year after this act takes effect, and no petition for extra allowance for work performed after this act shall take effect shall be received or acted on by the canal board, unless the same shall be presented within one year after the performance of such work.

[Part, and probably the whole of this section, is obsolete. The provisions of article 4, therein referred to, have been omitted as obsolete.]

Charges against superintendents and collectors, how to be inquired into. § 3. The canal board may direct the district attorney of the proper county to conduct an inquiry into the truth of any charges made or to be made against any superintendent, collector or other officer appointed or employed by such board, or by the canal commissioners, and the same proceedings shall be had thereon, in all respects, as provided by the fourth article of the sixth title and fifth chapter of part first of the Revised Statutes, in relation to charges against a sheriff or county clerk, except that the testimony so taken shall be transmitted to the canal board, and the necessary expenses of any such inquiry shall be certified by the canal board and paid by the commissioners of the canal fund, out of the canal revenues.

Three members of the board may take testimony. § 4. Any three members of the canal board, designated by the said board, shall be competent to take and reduce to writing any testimony offered to the board in relation to claims for extra allowances to any contractor.

Amount of award for damages to be deposited in bank. § 5. When any damages shall have been awarded by the canal appraisers, or settled by the canal board, for appropriating any lands, streams or waters to the use of any canal, and it shall appear that there is any mortgage, judgment or other lien or incumbrance upon the property appropriated, the commissioners of the canal fund may, in their discretion, deposit the amount so awarded or settled in any bank selected for the deposit of canal revenues, to the account of such award, to be paid and distributed to the parties entitled to the same, as shall be ordered by the court of chancery, on the application of the said parties, or any of them.

L. 1854, Chap. 332—An act prescribing regulations in regard to the management of the canals, and for other purposes.

Assent of five members, when necessary. SECTION 1. The assent of five members of the canal board shall be requisite to the adoption of all questions or resolutions involving the expenditure or appropriations of the public moneys, and all such questions or resolutions shall be taken by ayes and noes, and entered upon the minutes.

Minutes to be published. § 2. It shall be the duty of the secretary of the canal board to cause to be published, in the state daily paper at Albany, the minutes of said board as soon as may be after each session.

[Sections 3 and 4, relating to the compensation of the canal commissioners and their power to remove superintendents, omitted as obsolete.]

Certificate of title before payment of damages. § 5. Before the auditor shall be required to pay any damages that may be awarded, or the amount of any commutation agreed on for the appropriation of land or water, or for the want of a farm bridge, he shall be furnished with a satisfactory abstract of title, and certificate of search as to incumbrances, showing the person demanding such damages or commutation to be legally entitled thereto, which abstract and search shall be retained and filed in his office.

Farm bridges. § 6. No person shall be entitled to demand a farm bridge across any of the state canals or their feeders, in any case when the necessity or convenience of such bridge shall have arisen from the division or acquisition of any property subsequent to the location of such canal or feeder.

Bridges. § 7. Chapter two hundred and seven of the laws of eighteen hundred and thirty-nine, and all other existing laws in relation to bridges over the enlarged Erie canal, shall be applicable to bridges over the enlarged Oswego and the enlarged Cayuga and Seneca canals, and the Cayuga inlet.

[Section 8 repealed by L. 1886, ch. 593.]

Street and road bridges. § 9. Hereafter no street or road bridges shall be constructed by the canal commissioners over any canal of this,' except upon such streets or roads as were laid out, worked and used previous to the construction of the canals by which such streets or roads were obstructed.

Repeal. § 10. All laws in force in this state, inconsistent with the provisions of this act, are hereby repealed.

L. 1859, Chap. 495 — An act prescribing the powers and duties in certain cases of the canal board, the canal commissioners, and other officers whose duties relate to the canals of this state.

Canal board may not cancel contracts except in certain cases. SECTION 1. The canal board shall not have power to cancel any contract entered into for the enlargement and completion of the canals of this state, unless upon application of the contractor or contractors in cases where the state has failed to make payment according to the contract; nor shall the said board have power to cancel any contract entered into, pursuant to the laws of this state, to keep in repair any completed or uncompleted portions of the canals of this state; and neither the said canal board nor the canal commissioners, or either of them, shall have power to make any allowance to contractors, under contracts for keeping said canals in repair, beyond the sums stipulated to be paid by such contracts; and no abatement or allowance shall be made to any contractor of repairs, from the sum agreed to be paid by him to the state, for the boats, tolls, implements and materials embraced in the inventory exhibited at the letting and attached to the contract for repairs.

Contracts for material. § 2. All contracts entered into by any canal commissioner, superintendent of canal repairs, or engineer in charge of repairs, for the delivery of timber or lumber for the repairs of the canals, or to do or complete a specific job of work relating to such repairs, and involving the performance of labor, and the furnishing of materials, when not advertised to be let to the lowest bidder, shall be in writing; and such contract, duly authenticated, shall, within fifteen days after the same shall be executed, and before any money shall be paid thereon, be filed in the canal department; and all such contracts shall state the time within which the same is to be performed and executed, which shall not exceed one year from the date thereof.

[Sections 3, 4 and 5, relating to collectors of tolls, and weighmasters, omitted as obsolete.]

Inspectors and measurers to be appointed. § 6. For the purpose of protecting the state in its property, revenue and tolls on the canals, the canal board is hereby authorized to appoint ten inspectors and measurers of lumber and timber, and of

¹ So in the original.

boats and their cargoes, to be located at such points and places on the canals as may be deemed most expedient to accomplish the objects of the appointment.

May administer oaths. § 7. The measurers and inspectors authorized to be appointed under the next preceding section are hereby authorized to administer oaths, when the same becomes necessary, to enable them to discharge the duties of their respective offices.

Statement of expenditures. § 8. When any superintendent of canal repairs, or resident engineer having charge of such repairs, shall submit to the canal commissioner in charge the detailed statement of the several anticipated objects of expenditure on the line of the canal under his charge, it shall be the duty of such commissioner, if he dissents from any particular object of expenditure set forth in such estimate, in whole or in part, or if he shall consider the sum estimated for the objects named to be larger than will be required, to state, in writing, on the estimate, his allowance or disallowance of each particular object of expenditure named therein, and of the amount which in his judgment may be required for each work or object; and every such superintendent and engineer shall apply the sums so estimated and allowed to the work or object named in such estimate, and to no other purpose whatever. And all orders and directions given by any engineer to any contractor on the public works, during the progress of the same, and in relation thereto, shall be in writing.

[Sections 9 and 10 omitted as obsolete.]

Conflicting laws repealed. § 11. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

L. 1866, Chap. 836—An act to prescribe the powers and duties in certain cases of the canal board, the canal commissioners, and other officers whose duties relate to the canals of this state.

Canal commissioners to fix rate of labor. SECTION 1. No superintendent of repairs shall pay a higher price or compensation to any foreman, lock-tender or other subordinate person necessary to enable him to discharge his official duties, nor for any double or single team, nor for any mechanical labor, than shall be fixed by the board of canal commissioners; and it shall be the duty of the said board of canal commissioners to fix, from time to time, the rate of compensation for the labor and service herein mentioned, and shall notify the several superintendents and the auditor of the canal department thereof, and no resolution of the said board increasing the rates of compensation for labor and service beyond a price previously fixed shall have a retroactive effect.

105 N. Y., 254.

Estimates and measurements to be sworn to. § 2. It shall be the duty of the auditor of the canal department to reject and refuse payment of any canal commissioner's draft or certificate, or any other claim against the state founded on a certificate or measurement of an engineer in the employment of the state, unless such estimate and measurement shall be sworn to and verified as provided in the second section of the act entitled "An act in relation to the public works and the officers connected therewith," passed March twelfth, eighteen hundred and forty-seven.

Certificate of commissioners necessary to contract for tools, etc. § 3. No superintendent of canal repairs shall have any authority to contract for the delivery of or to purchase any tools, implements, materials, boats or other matter or thing to be used in the repairs of the canals, except upon the certificate of the canal commissioner in charge first had and obtained, designating the number and quantities, with the prices to be paid for such tools, implements, materials and boats; and every superintendent of repairs who shall violate the provisions of this section, or who shall apply any of the moneys received by him upon a detailed estimate, to

objects, works or purposes other than what is specially named and described in the detailed estimate upon which the moneys were advanced to him, shall be removed from office, and the canal board are hereby authorized and directed to hear and determine all complaints made against any superintendent of repairs for a violation of the provisions of this section, but the provisions of this section do not apply to sudden breaks and breaches in the canals during navigation, when the necessities of the case may call for immediate action before the canal commissioners can be consulted.

Additional inspectors in the city of New York. § 4. The canal board is hereby authorized to appoint two additional inspectors and measurers of lumber and timber and of boats and their cargoes, to be located in the city of New York, who shall possess all the powers and perform all the duties of such inspectors and measurers located upon the canals of this state, and may receive such compensation as shall be allowed by the canal board, not exceeding the compensation paid to other inspectors and measurers employed upon the canals.

[Sections 5 to 8 amend the R. S., and other acts.]

Clause canal board to insert in certain contracts. § 9. It shall be the duty of the board to cause to be inserted in all contracts for work or repairs on the canals, a clause requiring the contractor to pay all damages arising to the state or to any individual, by reason of the negligence, default or misconduct of such contractor in the performance of such contract.

L. 1867, Chap. 71 — An act authorizing the canal board to appoint a canal boat inspector at Whitehall, in the county of Washington.

Inspector at Whitehall; his duties and powers. SECTION 1. For the purpose of protecting the interests of the state in its property, revenue and tolls, the canal board is hereby authorized to appoint an inspector and measurer of lumber and of boats and their cargoes at Whitehall, in the county of Washington, who shall possess all the powers and perform all the duties now imposed by law upon such officers, and receive such compensation for his services as may be fixed by the canal board. In addition to the foregoing powers and duties, the said inspector shall have power and it shall be his duty to regulate and station all vessels, boats, rafts and other craft in the harbor of Whitehall, within the corporate limits of the village of Whitehall, and from time to time to remove such vessels, boats or other craft as may not be employed or detained in discharging or receiving cargoes or loading, to accommodate other vessels, boats or other craft to load or unload, and to prevent all vessels, boats, rafts and other craft from obstructing for an unreasonable length of time, the entrance of boats, rafts and other craft into the Champlain canal at Whitehall, aforesaid.

Penalty for disobeying inspector. § 2. The said inspector shall have power and it shall be his duty to determine, how far and in what instances the masters and others having charge of vessels, boats or rafts shall accommodate each other in their respective situations and locations in said harbor; and if any master or other person having charge or control of any vessels, boats or rafts within the limits aforesaid, shall neglect or refuse to obey the directions of said inspector in matters within his authority, or if any person shall resist or oppose said inspector in the execution of the duties of his office, such person or persons shall, for every such offence, forfeit and pay the sum of twenty-five dollars, to be recovered with costs in the name of the people of the state of New York, in any court having cognizance of the same, and all moneys so collected shall be paid over to the collector of canal tolls at Whitehall, aforesaid, who shall account for and pay over the same to the treasurer of this state.

Repeal. § 3. All acts and parts of acts inconsistent herewith are hereby repealed.

L. 1876, Chap. 388 — An act to enlarge the powers of the canal board.

Power of investigation. SECTION 1. The canal board shall have power to investigate all matters and transactions, including those of the past, connected with or pertaining to the canals of this state.

Examination of witnesses. § 2. Whenever the canal board shall wish to examine any person as a witness upon any subject or matter connected with or pertaining to the affairs of the canals of this state, or shall wish to use, inspect or examine any book, account, voucher, document or writing in the possession of any person or under his control, relating in any manner to the affairs of the canals of this state, the chairman of the canal board, or in the absence of the chairman, any member of the canal board shall issue a subpoena commanding such person to appear before the canal board at a time and place therein specified, to be examined as a witness, and such subpoena may contain a clause requiring such person to produce on such examination any book, paper, document, or writing in his possession or under his control relating in any manner to the affairs of the canals of this state. The examination of any witness by or before said canal board shall be open and public whenever such witnesses shall request that such examination shall be publicly conducted. Whenever any person shall be examined as a witness under the provisions of this chapter he may, if he desires, be attended by counsel, who may ask any pertinent question of such witness, and his answers thereto shall be reduced to writing by such board as a part of the deposition of such witness. Whenever, in the opinion of the canal board, it shall be necessary for the public good to examine the witnesses separately, they may, on the examination of any witness, exclude all other witnesses subpoenaed on the same matter during such examination.

Service of process. § 3. Any person may serve, and it shall be the duty of any sheriff, or any deputy sheriff or constable, to whom the subpoena may be delivered for service, to serve the same upon the person or persons named therein, by showing the original and delivering a copy thereof; the official certificate of the sheriff, deputy sheriff, or constable, or the affidavit of any other person, of the time and place of the service of such subpoena, shall be *prima facie* evidence of such service. The auditor of the canal department shall pay, out of any moneys appropriated for canal purposes, upon the order of the canal board, any expenses incurred in carrying out the provisions of this act. All evidence taken under the provisions of this act shall be filed in the office of the attorney-general.

Contempt. § 4. Whenever any person duly subpoenaed to appear and give evidence, or to produce any book or paper, as herein provided, shall neglect or refuse to appear, or to produce such book or paper according to the command of such subpoena, or to allow an inspection of the same, or shall refuse to testify before such board, or to answer any question which a majority thereof shall decide to be proper and pertinent, he may be proceeded against as for contempt, and it shall be the duty of the chairman of the board, or, in the absence of such chairman, it shall be the duty of any member of such board to report the facts by affidavit, verified by one of the members of said board, to the county judge of the county where such examination was had, or to any judge of the supreme court in such judicial district, or of any superior court of any city in such county, who shall thereupon issue an attachment in the form usual in the court of which he shall be a judge, directed to the sheriff of the county where such witness may be, commanding the said sheriff to attach such person and forthwith bring him before the judge by whose order such attachment was issued. In case the misconduct alleged shall be the refusal to answer a question, it shall appear by said affidavit that such question was proper and pertinent; and, in case the misconduct alleged is the refusal or neglect to produce any book or paper, said affidavit shall state upon the knowledge or the information and belief of the person making the same, that the production of such book or paper is material and necessary.

Arrest. § 5. The officer to whom such attachment shall be delivered shall execute the same by arresting and keeping the witness in his custody, and forthwith bringing him personally before the judge and detaining him in his custody until the order of the judge.

Proceedings thereon. § 6. When any witness arrested upon such attachment shall be brought before the judge who shall have issued the same, the judge shall cause interrogatories to be filed, specifying the facts and circumstances alleged against the witness and requiring his answer thereto; to which the witness shall make written answers on oath within reasonable time as the judge shall allow. The judge may receive any affidavits or other proofs contradictory of the answers of the witness or in confirmation thereof; and, upon the original affidavits, such answers and such subsequent proof shall determine whether the witness has been guilty of the misconduct alleged.

[Section 7 repealed by L. 1886, ch. 593.]

Adjournments; costs. § 8. Whenever an attachment shall have been issued according to the provision of this act and shall not have been returned, the board shall when it adjourns, adjourn to a time and place certain, which time shall not be more than ten days for any one adjournment, of which notice shall be given by the chairman to the judge before whom the said attachment shall be returnable, and in such case if the person against whom it issued shall be arrested he may give a bond to the people of the state of New York in a penalty to be fixed by the judge, not less than one thousand dollars, with two sufficient sureties to be approved by the said judge, with a condition that he will appear before such board at the time and place to which it shall have been adjourned, and will then and there perform such act or duty as such judge shall direct to be named in such bond, and for the refusal to perform which he is in custody; said bond shall not be taken, however, until the witness shall first have paid all costs and expenses incurred by reason of his contempt.

Bond. § 9. Such bond shall be filed in the office of the comptroller of the state, and if default be made in the condition thereof it shall be the duty of the attorney-general to sue for and collect the penalty of the same, and the money, when received, and all costs and expenses which shall be collected by virtue of the provisions of this act shall be paid to and retained by the attorney-general and may be used by him and shall be accounted for by him in the same manner as costs collected in actions conducted by the attorney-general.

Orders, etc., to be entered. § 10. All orders, decisions and judgments made and given in proceedings under this act shall be filed in the office of the clerk of the county where such proceedings are had, and the clerk shall thereupon enter the proper orders and judgments, and such orders, decisions and judgments shall have the like force and effect as if made and given by the court at a regular term or session thereof.

Oaths. § 11. Any member of the canal board shall have power to administer oaths and affirmations to witnesses to be examined before such board.

[Section 12 repealed by L. 1886, ch. 593.]

Excuse from testifying. § 13. No person sworn under the provisions of this act shall be excused from testifying on the ground that his evidence would tend to criminate or degrade him; but the testimony of any witness examined under the provisions of this act, shall not be used against him on the trial of any indictment or criminal prosecution other than for perjury committed on such examination.

TITLE 9.**ARTICLE FIFTH.****OF WATER PRIVILEGES, AND THE SALE OF SURPLUS WATERS.**

SEC. 79. Commissioners to agree with owners of hydraulic privileges for surplus waters.

- [231] 80. When surplus waters are created by constructing dams, etc., persons owning works contiguous thereto, may use such waters, upon complying with certain conditions.
81. Value of such waters to be estimated by appraisers.
82. If such owners refuse to comply with conditions, not to have use of waters.
83. Commissioners may resume use of waters when necessary.
84. Owner of works, not to be affected until his damages are paid.
85. Owners of hydraulic works, in certain cases entitled to surplus waters.
86. Owners of land over which surplus water flows, and adjoining dams, entitled to surplus water.
87. Value, how ascertained; value of former use of water, how ascertained, and when to be paid.
88. How right of such owners to surplus water may be waived or forfeited.
89. Qualifications of preceding sections; not compulsory to close race-ways or gates; sale of surplus waters not to be made, when no right will be conferred.
90. Manner and terms of sale of surplus waters.
91. Canal board to revoke former leases, where no right to use surplus waters has been conveyed.
92. Where there is a partial resumption of waters, purchaser entitled to what is not resumed.
93. Where stone walls to be made, and the manner of erecting.
94. Waste-gates, sluice, slide, etc., when and where to be erected.
95. [Repealed.]
96. Persons owning water privileges on the canals, to discharge the waters as commissioners shall direct.
97. Commissioners, or party grieved, may bring writ of error upon decision of supreme court, in relation to water privileges.
98. Duty of clerk of supreme court, upon being served with writ of error.

Agree-
ments re-
specting.

§ 79. Whenever it shall become necessary to secure to any state canal, an additional supply of water, the canal commissioners may agree with the proprietors of hydraulic privileges, affected by their proceedings, relative to the use of the water privileges to be created, and of the surplus water, in such manner as they shall deem most beneficial to the state.

[L. 1823, 269, § 2; Ib., 132, §§ 1 and 2.]

Who entit-
led to, in
certain
cases and
conditions.

§ 80. Whenever the canal commissioners shall construct a dam across any river or creek, to raise a head of water for the use of a canal, by means whereof, any works adjacent to such river or creek, in which water power is employed, before such time legally used, may be benefitted without prejudice to the canal, the owner of such works, for their benefit, shall be entitled to the use of the surplus water, upon his complying with the following conditions:

1. He shall construct, under the direction of the canal commissioners, a good and substantial race-way and gate in such dam, to draw off as much of the surplus water as his works may require.

2. He shall give such security to the people of this state, as the canal commissioners shall deem sufficient, to keep such gate and race-way in complete repair so as to prevent any waste of water.

3. He shall, within ninety days after such race-way and gate shall be completed, apply to the canal appraisers, and request them to

ascertain the benefits accruing to him, from the use of such dam, or other erection.

ART. 5.

4. Within ninety days after such benefits shall have been so ascertained, he shall pay the sum at which they shall be estimated, into the treasury.

[L. 1823, 269, § 2; Ib., 132, §§ 1 and 2.]

§ 81. It shall be the duty of the canal appraisers, when so required, to make a fair estimate of the benefits so accruing to such owner, and to make a return thereof, without delay, to the treasurer of the state.

Appraisals. [232]

[L. 1823, 269, § 2; Ib., 132, § 1.]

§ 82. If the conditions, as above specified, shall not be fulfilled by such owner, it shall be the duty of the acting canal commissioner, to close any race-way or gate such owner may have constructed; nor shall the owner again open the same, or any other in the same dam, unless upon the performance of the conditions so imposed.

Duty of owners.

[L. 1823, 269, § 2; Ib., 132, § 1.]

§ 83. The canal commissioners may resume the privileges so granted, whenever, in their judgment, the surplus water, or a portion thereof, shall become necessary for the use of the canal; but whenever such privileges shall be so resumed, the sum paid into the treasury therefor, shall be refunded.

When to be resumed.

[L. 1823, 269, § 2; Ib., 132, § 1.]

§ 84. Nothing in this article contained, shall be construed to deprive the owner of hydraulic privileges, of any rights possessed by him, prior to any grant from the state under this article, unless his damages from the loss of such rights, shall be duly assessed and paid.

Construction of this article.

[L. 1823, 269, § 2; Ib., 132, § 1.]

§ 85. In all cases where water or mill privileges, before legally used, have been or shall be injured by reason of the diversion of the water to the use of either of the canals, the person so injured shall be entitled to the first privilege of taking water for the use of their works, on the terms and conditions above specified, from any work constructed for the purpose of such diversion, or from the canal itself benefitted thereby, when there is a surplus of water, and with the consent of the canal commissioners.

Preference in the use of water.

[L. 1823, 269, § 2; Ib., 132, § 1.]

§ 86. Whenever the canal board shall order a sale of surplus waters, pursuant to the provisions of the seventy-fifth section of this title, to the use of which no person shall be first entitled as the owner of works before such time legally used, according to the preceding eightieth section, the owners of the land upon which such surplus waters shall flow, and the owner of land adjoining any dam erected, by the canal commissioners, by which surplus waters shall be created, shall be entitled to the first privilege of taking such waters, subject to the provisions of this article so far as the same may be applicable; and the canal commissioners shall have the same powers in relation to all such surplus waters, as are herein given in respect to surplus water by which hydraulic privileges are benefitted.

Other persons entitled first to surplus waters.

[Act of April 21, 1828, 426, ch. 317.]

TITLE 9.
Value how ascer- tained.
 (233)
Value of former use of surplus waters.

§ 87. Whenever the owner of any land over which surplus water shall flow, or the owner of land adjoining any dam by which surplus water shall be created, entitled according to the last section, to the use of such water, shall apply for a lease of the same, the canal commissioners shall direct the canal appraisers to estimate the value of the use of such water; and the said appraisers shall include in such estimate, the value of any use of such water, which such owner may have had previous to obtaining a lease therefor; and within ninety days after such appraisal shall have been made, and notice thereof given to such owner, he shall pay the amount of the value of such previous use, into the treasury.

[Act of April 21, 1828, 426, ch. 317.]

How right waived or forfeited.

§ 88. If any owner of land over which such surplus water shall flow, or if any owner of land adjoining any dam by which surplus water shall be created, shall omit for three months after being notified by the acting canal commissioner to that effect, to apply for a lease of such water, or shall neglect to comply with any of the provisions of this article, the canal board shall order a sale of such surplus water.

[Act of April 21, 1828, 426, ch. 317.]

Qualifica- tions of preceding sections as to race- ways.
As to sale of surplus water.

§ 89. But in cases, where in the opinion of the acting canal commissioner, it would be inexpedient to close any race-way or gate, it shall not be compulsory on him to do so; and where, in the opinion of the canal board, a lease of surplus waters, will not confer on the lessee, any right or authority to use the same without the consent of the owner of the land over which such surplus water shall flow, they shall not authorize the letting of the same, without evidence, that the consent of such owner has been given to such use.

[Act of April 21, 1828, 426, ch. 317.]

Proceed- ings on sale of water.

§ 90. Whenever a sale of surplus water shall have been directed by the canal board, the acting canal commissioner within whose line such water shall fall, shall proceed to sell and convey such surplus water in the manner following:

1. Each privilege of using such water shall be sold separately, at public auction, to the person bidding the highest annual rent therefor.
2. The place of sale shall be in the vicinity of the place where the water may be most conveniently used.
3. A notice, stating the time and place of the sale, and describing the waters to be sold, shall be published twice in each week, for six weeks in succession, immediately preceding the sale, in the state paper, and once in each week for the same time, in each of the newspapers printed in the county where the water is to be sold.
4. A lease for such a term of years as shall have been directed by the canal board, shall be executed by the commissioners, in the name of the people of this state, to the purchaser, and in such conveyance, the rent bid by such purchaser, shall be reserved.
5. The conveyance shall contain a covenant, that the rent therein reserved, shall be paid annually to the commissioners of the canal fund, and a condition, that if such rent shall remain unpaid for one year after it shall become due, the grant or lease shall become forfeited to the state.

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6. The conveyance shall also contain a reservation of the right, wholly to resume the water so conveyed, and the privileges thereby granted, and to control and limit the use of such water and privileges, whenever, in the opinion of the canal board, or of the legislature, the necessary supply of water for the use of any state canal, or the safety of such canal, or works connected therewith, shall render such resumption, control or limitation necessary; and a provision that where such resumption is made, or control or limitation imposed, no compensation or damages shall be allowed for any improvements or erections made in consequence of such grant or lease.

7. The conveyance shall contain a further reservation of the right of the state, without making any compensation to the purchaser, wholly to abandon or destroy the work, by the construction of which such surplus waters shall have been created, whenever in the opinion of the canal commissioners, the occupation and use of such work shall cease to be advantageous to the state.

8. A duplicate of such conveyance, under the hand and seal of the purchaser, shall be executed and delivered by him to the acting canal commissioner, who shall, without delay, procure the same to be recorded in the clerk's office of the county in which the water sold shall be situated, and shall transmit it, when recorded, to the commissioners of the canal fund.

9. All the expenses attending the execution of the conveyances, and the recording thereof, shall be paid by the purchaser.

[L. 1825, 399, § 3 ; 1826, 363, § 31.]

§ 91. When the canal board shall be satisfied that any lease of surplus waters granted by the canal commissioners, or either of them, before the twenty-first day of April, one thousand eight hundred and twenty-eight, is invalid, or conveys no right to use such waters, and may expose the state to claims for remuneration, they may revoke and annul such lease, and may direct the re-payment to such lessee, of any monies received on such lease, with interest from the time of such payment; which shall be paid accordingly, on the warrant of the comptroller, from the canal fund.

Canal board when to revoke former leases.

[L. 1828, ch. 317.]

§ 92. Where there shall be a partial resumption only of the waters so sold, the purchaser shall be entitled to the use of the remaining water privileges for the residue of his term, on the payment of such reduced rent as shall be fixed by the canal board; but if he shall refuse to accept thereof at the rent so reduced, the privileges so remaining shall be again sold by the canal commissioners, under the direction of the canal board.

Right of purchaser.

[See L. of 1842, ch. 274, *post.*]

§ 93. At every place where waters are to be taken from any state canal, or work connected therewith, for hydraulic purposes, except at Black Rock, at the mouth of Tonnewanta creek, and at the locks at Lockport, and except where such waters are taken from a dam across a stream which is used as a feeder, or from a feeder not navigable, the canal commissioners shall construct a permanent wall or erection of stone laid in mortar, and cemented, of sufficient thickness to ensure the safety of the canal, and such wall shall not in

Walls to be erected.

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TITLE 9. any case be more than six inches lower than the top-water line of the canal.

[L. 1826, 362, § 26; L. 1827, 223, § 11.]

No waste-gates, &c., in them.

§ 94. No waste-gate, sluice, slide, water-gate or other passage, shall be made in connection with any wall or erection over which water is to be drawn, in such manner that the same can be opened, or that water can be drawn by, through or under the same, to the use of any mill or machinery, using water from the canal, except at the four places above excepted.

[L. 1826, 362, § 26; L. 1827, 223, § 11.]

[Section 95 repealed by L. 1886, ch. 593.]

Water how discharged.

§ 96. Every person now owning any water privilege, upon either of the canals, or hereafter purchasing any such privilege of the state, shall discharge the waters owned by him at such place or places, as the canal commissioners shall direct, whenever the navigation or safety of the canal, or any of its works, shall be benefitted by such direction.

[L. 1826, 362, § 29.]

Error from decisions of supreme court.

§ 97. The canal commissioners, or the party aggrieved, may bring a writ of error from any decision of the supreme court hereafter to be made, touching any claim made against the state, for deprivation of any right, or pretended right, to the use of any water or water privileges, or fisheries, in consequence of the construction of any canal or feeder, now or hereafter to be made, whether the decision be made upon any case arising on a *mandamus* or otherwise; and although no pleadings were had or issue joined in the cause.

[L. 1827, 230, § 42.]

Proceedings.

§ 98. On service of such writ of error it shall be the duty of the clerk of the supreme court, to make out a transcript of the record, or papers and documents, on which such decision was had, and to cause the same to be filed with the clerk of the court for the trial of impeachments and the correction of errors, in twenty days after service of the writ.

[L. 1827, 230, § 42.]

L. 1839, Chap. 316 — An act in relation to the use of surplus water on the Oswego canal.

Permission may be given to use water. SECTION 1. The canal commissioners are hereby authorized to permit the surplus water flowing over any of the dams on the Oswego river to be used for hydraulic purposes, by the owners of the lands, over or upon which such waters may flow, under such regulations and restrictions as they may impose, and subject to be resumed, in whole or in part, whenever they shall think proper, without any right of the persons receiving such permission to claim any damages or compensation for such resumption; but such permission shall not be given to use any water on the levels of the said canal, nor the water at the dam nearest the village of Oswego.

L. 1842, Chap. 274 — An act in relation to the surplus waters of Black Rock harbor.

Proceedings in case of non-payment of rent. SECTION 1. Whenever any lease for surplus waters of Black Rock harbor, may become liable to forfeiture in consequence of the non-payments of the rents due thereon; before declaring the same forfeited, the comptroller shall give at least six months' notice, in two newspapers published in the county of Erie, that the same will be forfeited unless the rents due shall then be paid, with the costs of such advertising; if the rents shall not then be paid, the canal board may direct that any separate privilege of taking and using water included in such lease, the rent on which separate privilege has been regularly paid, which shall be occupied and applied to any machinery, shall be separately exposed to sale; or they may require the canal appraisers to estimate and appraise the value of such separate privilege, having reference to the terms of the original lease and subject to the approval of the canal board; and upon receiving such appraisal the canal board may sell such privilege to the person so occupying the same, as shall be deemed just and equitable, under the circumstances, and may thereupon cause a lease for such privilege to be executed according to law.

L. 1879, Chap. 269 — An act making an appropriation to pay the expenses of the collection of tolls, superintendence, ordinary repairs and maintenance of the canals for the fiscal year commencing on the first day of October, eighteen hundred and seventy-nine, and to provide for a contingent deficiency in the revenues for the calendar year eighteen hundred and seventy-nine, and making further appropriations out of any unexpended moneys in the treasury to the credit of the fund for extraordinary repairs.

Surplus water on the Rome level. *Extract from § 1.* The surplus waters in the western portion of the Rome level of the Erie canal shall at all times of the year be discharged through the culverts of the locks at the western end of said level, so far as the capacity of said culverts will permit, and in no case, except to guard against danger to the banks of the canal, in the discretion of the superintendent of public works, shall any such surplus waters of said level be discharged into the channels of Limestone and Butternut creeks. [*Thus amended by L. 1884, ch. 294.*]

[The remainder of this statute is omitted as temporary.]

L. 1883, Chap. 291 — An act to provide for the prevention of disease or sickness caused by the overflow or discharge of water from the canals of the state into creeks or water channels.

Complaint may be made to state board of health. SECTION 1. Whenever water escaping or discharged from any of the canals of this state through water-gates, spillways or otherwise shall overflow lands located along the canals, or any creek or stream receiving such water or collect in stagnant pools along the canal or any such creek or stream to such an extent as to cause disease and sickness to the inhabitants of the vicinity, any three residents of the vicinity may make complaint thereof in writing, under oath, to the state board of health, setting forth the extent of the injury to the public health so far as is within their knowledge, and the length of time the disease or sickness has existed, which complaint shall be verified and shall be accompanied by a certificate of a practicing physician residing in the vicinity, stating the facts pertaining to the allegations of the complaint, so far as known to him.

Action to be taken by board on receiving complaint. § 2. On receiving such complaint the state board of health shall forthwith examine into the facts and circumstances therein set forth, and may call on the state engineer and surveyor to make such surveys as they may require for their information, who shall render such assistance without delay, and in case such board shall be satisfied that such disease or sickness exists, and is caused by waters of the canal escaping or discharged

therefrom, said board shall report regarding the matter to the superintendent of public works without unnecessary delay, who shall forthwith abate the cause of such disease or sickness complained of.

[Section 3 is omitted as temporary.]

TITLE 9.

[236]

ARTICLE SIXTH.

OF THE SUPERINTENDENTS OF REPAIRS, AND THE COLLECTORS OF TOLLS.¹

SEC. 99. Superintendent of repairs, and collectors shall give bond.

100. Duty of superintendent.

101. Shall be under direction of commissioners.

102. To account to comptroller; duty of comptroller in case of neglect, etc.

103. Account to be certified by canal commissioners, before presented.

104-110. [Repealed.]

To give
bonds.

§ 99. Each superintendent of repairs and every collector of tolls,¹ before he shall enter on his official duties, shall execute and file in the office of the comptroller, a bond for the faithful execution of his trust, in such penalty and form as the canal board shall direct, and with such sureties as the comptroller shall approve.

Duty of
superin-
tendents.
4 Hill, 683;
34 N. Y.
397; 9 Abb.
Pr. R. N.
8, 54.

§ 100. It shall be the duty of each superintendent, under the direction of the canal commissioners, to keep in repair such sections of the canals and works connected therewith, as shall be committed to his charge: to make all necessary contracts for that purpose, and faithfully to expend all such monies as shall be placed in his hands, by the canal commissioners or the commissioners of the canal fund.

[L. 1826, 361, § 2.]

1b.

§ 101. Each superintendent shall be under the direction of the canal commissioners and especially of the acting commissioner, having charge of the line of the canal, on which such superintendent is employed.

[L. 1827, 224, § 14.]

To ac-
count.

§ 102. Each superintendent shall, as often as once in sixty days, render his account to the comptroller, who shall audit the same; and if any superintendent shall omit to render his account, or his account as rendered be not satisfactory, the comptroller shall notify the canal board and the commissioners of the canal fund thereof; and no further advances of money shall be made to such superintendent, but he shall be immediately removed from office.

[L. 1827, 224, § 13.]

How veri-
fied.

§ 103. Before any superintendent's account for expenditures shall be presented to the comptroller, the canal commissioner having charge of that part of the canal on which such superintendent is employed, shall certify on such account, that he has examined the same; that the several disbursements specified therein, were made under his direction on the canal, or for repairs necessary to be made thereon; and that he believes such disbursements to be proper and reasonable, and to have been made, as charged.

[L. 1827, 224, § 13. See L. 1851, ch. 57; L. 1853, ch. 52, *post.*]

[Sections 104 to 110 relate exclusively to collectors of tolls, and are consequently repealed by L. 1883, ch. 165, § 2.]

¹ Office of collector of tolls abolished, L. 1883, ch. 165.

L. 1851, Chap. 57—An act in relation to the powers and duties of the canal commissioners and superintendents.

Duty. SECTION 1. Superintendents appointed by the canal board on the several canals of this state, shall give their personal and constant attention to the duties of their office.

Receipts for money. § 2. No superintendent, appointed as aforesaid, shall under any pretence whatever take a receipt for labor done, services performed or materials furnished for the canals, when the money shall not be actually paid.

Powers of appointment; canal commissioners may remove for cause; notice, how given and filed; vacancy, how filled. § 3. Each superintendent, so appointed, shall have power to appoint his own foreman, lock-tenders and other subordinate persons necessary to enable him to discharge his official duties, and the compensation to each shall not exceed the rate of compensation established by the board of canal commissioners. But the canal commissioner in charge of any section of the canal in which any foreman, lock-tender, or other subordinate person may be employed, or the board of canal commissioners shall have absolute power to remove any foreman, lock-tender or other subordinate for misconduct, incompetency or neglect of duty; provided such canal commissioner or the board of canal commissioners making such removal shall specify the cause of such removal in writing and file the same in the office of the auditor of the canal department within ten days from the date of such removal. In case of the removal of any such foreman, lock-tender or other subordinate, it shall be the duty of the commissioner or the board of canal commissioners making such removal immediately to notify the superintendent in charge of the section of the canal, where such removal shall be made, of the fact of such removal; and in case the superintendent shall neglect or refuse for three days to fill the vacancy thus created, and to notify the commissioner or board of canal commissioners thereof, it shall be the duty of the canal commissioner or the board of canal commissioners making such removal to fill such vacancy.

L. 1853, Chap. 52—An act requiring canal superintendents to publish monthly abstracts of their official disbursements.

Monthly abstracts of disbursements to be published; contents of abstract; verification; expense of publication. SECTION 1. It shall be the duty of each canal superintendent of this state, or of the officer upon whom the duties of superintendent shall be devolved, on or before the twentieth day of each month, to publish in some newspaper printed in any county through which any part of the section of the canal in his charge shall pass (giving preference to a newspaper published in a city and town located on the line of the section of canal in his charge, or in the county of his residence when possible), an abstract of his official disbursements during the preceding calendar month, stating therein the name and residence of every person to whom he has paid money, and the amount paid to each; if for labor, the number of days and the amount per day; if for material, the kind, quantity and price; also a similar statement of tools and implements purchased, which abstract, verified by the oath of such superintendent, shall be published in the entire weekly edition of such newspaper, and said superintendent shall also make and file a duplicate thereof in the office of the county clerk in the county in which such superintendent shall reside. The expense of publication herein provided for, at not exceeding the legal rates now allowed by law for the publication of session laws, shall be included from time to time in the monthly abstracts of the superintendent, and the amount thereof shall be paid in the like manner, and upon like vouchers, as other disbursements and expenditures of the said superintendent are audited and paid; the said publication to be made in such form and manner as may be prescribed by the auditor, and the expense for publication shall be determined and approved by him. [*Thus amended by L. 1874, ch. 172.*]

[Section 2 was repealed by L. 1874, ch. 172.]

Form of abstract and blanks. § 3. The auditor of the canal department shall prescribe the form of such abstract, and cause the necessary blanks to be printed and sent to the superintendent, together with such instructions for publication or filing as will be necessary to insure uniformity in the same.

Certificate of filing to be sent to auditor. § 4. Immediately after the publication or filing such abstract in the county or town clerk's office, he shall transmit to said auditor a certificate to the effect that the same has been filed or published according to law, in which he shall state the aggregate amount of such abstract, the form of which certificate shall also be prescribed by said auditor.

Subject to inspection. § 5. Said abstract so filed shall be subject to the inspection of the public at all reasonable office hours.

TITLE 9.

[1898]

ARTICLE SEVENTH.**REGULATIONS AND PENALTIES CONCERNING THE NAVIGATION OF THE CANALS, AND THE COLLECTION OF TOLLS.¹**

- SEC. 111. Owners of canal boats to give certificate of registry to collectors.
 112. If master of boat, whose owners reside out of state, is changed after certificate is given, new master to give one.
 113. Collector to give receipt for certificate.
 114. Comptroller to make registry of boats navigating canals.
 115. When boat is transferred, comptroller to alter register, upon proof of fact.
 116. Comptroller to send collectors copy of register.
 117. No clearance granted without proof of registry.
 118. Persons named in certificate, deemed owners of boats, for certain purposes.
 119. Penalty for changing name of boat without consent of comptroller, or for reporting false name.
 120. No boat to have a clearance without name on it.
 121 & 122. Masters of boats carrying property to show bills of lading to what collectors.
 123. Where no collectors at place of lading, delivery, or any intermediate place, bill of lading to be exhibited to collector at nearest place of delivery.
 124 & 125. [Repealed.]
 126. Collector may compel master to verify bill by oath.
 127. Every boat navigating, canal to have a separate clearance.
 128. No boat to proceed beyond place for which it is cleared, until clearance shown to collector at that place.
 129. If no collector at such place, clearance to be delivered at collector's office that boat last passes in voyage.
 130. Twenty-five dollars penalty for not delivering clearance.
 131. Collectors to give copies of clearances.
 132. Such copy to have effect of original; collector's fees for making it.
 133. Tonnage on canals to be ascertained and charged according to real weight of articles.
 134. When master of boat and collector cannot agree as to amount of tolls, articles to be weighed, etc.
 135. Master to pay expense of weighing, etc.
 136. Collector may detain boat and cargo until tolls, etc., are paid.
 137. If payment be refused, collector may distrain and sell property.
 138. Surplus arising from sale, after paying charges, etc., paid to master of boat, or owner of property.
 139. Statement of passengers to be furnished by masters of certain boats.
 140. What first statement delivered, to contain.
 141. When such statement is required, if the boat has conveyed no passengers, master to present to collector affidavit of fact.
 142. If more than one person has had charge of boat, during time statement, etc., is required, each to make such statement, etc.
 143 & 144. Collector to transmit such statement and affidavit to comptroller; penalty on master for not furnishing them; boat may be refused a clearance.
 145. Collector receiving statement, etc., to give acknowledgment.
 146. Certificate of comptroller, that no statement, etc., has been received at his office, presumptive evidence that none has been made.

¹ Canal tolls abolished by Const., art. 7, § 8, as amended in 1892.

147. Tolls on passengers in boats not belonging to a line, etc., how to be paid ; ART. 7.
penalties.
148. A specified sum, by the year, may be received as a commutation for tolls upon passengers.
149. Commissioners of canal fund to prescribe time of payment of commutation.
150. Bill of lading delivered, or payment of tolls made to persons authorised by collector, same as made to him.
151. Collector, etc., to assign berths to boats, when disputes arise concerning them.
152. No float to go over four miles an hour; ten dollars penalty for so doing.
153. When passage boat overtakes float; master of latter to let former pass.
154. When two floats meet, each to take the right.
155. When two floats meet, in certain places, which shall stop until other passes.
156. Ten dollars penalty for violating either of three preceding sections.
157. Floats within 100 yards of lock, on level with water in lock, to pass before any float on another level.
158. Questions of precedence in passing locks, to be decided by lock-keeper.
159. Twenty-five dollars penalty for not conforming to such decision, or for violating two preceding sections. [239]
160. Twenty-five dollars penalty for using shafts pointed with iron, on canal.
161. Decked boats to have knife fixed on bow or stern.
162. Twenty-five dollars penalty for not complying with above provision.
163. Same penalty for obstructing canal, by mooring boats, etc.
164. Penalty for obstructing it by sinking any boat, etc.
165. Boats, etc., found floating in canal, or any articles found on tow-path, to be seized and sold.
166. If owner of article pays costs, etc., not to be sold.
167. Avals, how accounted for.
168. If articles sold, proceeds of sale to be paid to owner, after deducting costs, etc.
- 169 & 170. Forfeiture for taking rails, posts, etc., from banks of canals.
171. Penalties, etc., enacted by this article, chargeable on boat or float.
172. When such penalty is sued for, process to direct officer to detain boat, etc.
173. If defendant prevail, to be released; if judgment recovered against him, to be sold, if amount, with costs, etc., not paid.

§ 111. The owners of every boat navigating the canals, shall subscribe and deliver to the collector of whom the first clearance for such boat shall be demanded, a certificate, to be entitled, "a certificate of registry," containing the names of such owners, and their respective places of abode, and also the name of the boat, and of some place as that where it is owned; if the owners shall reside out of this state, the certificate of registry shall be signed and delivered by the master of the boat, as the owner thereof.¹

Certificate of registry.

[L. 1827, 225, §§ 18-22.]

§ 112. If the master of a boat of which the owners reside out of the state, shall be changed after he shall have delivered such certificate, the new master shall sign and deliver a proper certificate of registry, to the collector of whom he shall first require a clearance.¹

[L. 1827, 225, §§ 18-22.]

§ 113. Every collector receiving a certificate of registry, shall sign an acknowledgment of the receipt thereof, and deliver the same to the master of the boat; and shall, without delay, transmit the certificate received, to the comptroller.¹

Duty of collector.

[L. 1827, 225, §§ 18-22.]

§ 114. The comptroller shall make a register of all boats navigating the canals, which shall be kept with the books and papers in his office relative to the canals, and be open to inspection during office

Duty of comptroller.

¹ Office of collector abolished, L. 1883, ch. 165.

TITLE 9. hours. The name of no registered boat shall be changed, without the order of the comptroller.

[L. 1827, 225, §§ 18-22.]

Register, how changed.

§ 115. If any persons residing within this state, claiming to be the owners of a registered boat, by a transfer from its former owners, shall produce to the comptroller, due proof of such transfer, and shall deliver him a new certificate of registry signed by themselves, it shall be the duty of the comptroller to change the register of such boat, so as to correspond with such new certificate.

[L. 1827, 225, §§ 18-22.]

Copies to collectors.

§ 116. The comptroller shall, from time to time, transmit to the several collectors, a certified copy of the register of boats in his office, and of the several changes made therein.¹

[L. 1827, 225, §§ 18-22.]

[240] Clearances when granted.

§ 117. No clearance shall be granted to any boat, unless the collector, of whom it is required, shall have evidence that such boat is duly registered; or if it be not registered, until the master thereof shall have delivered to such collector, a proper certificate of registry, or have exhibited to him, the receipt of some other collector, for such certificate.¹

[L. 1827, 225, §§ 18-22.]

Who owners.

§ 118. The persons specified in its certificate of registry, as the owners of a boat, shall be deemed in law the true owners thereof, for all purposes of enforcing the collection of tolls, and the execution of the rules and regulations for the navigation or maintenance of the canals.

[L. 1827, 225, §§ 18-22.]

Penalties.

§ 119. Every owner of a boat who shall change its name from that stated in its certificate of registry, then in force without the order of the comptroller, and every master who shall enter or report such boat, at any collector's office, by a different name than that so stated, shall, for every such offence, forfeit the sum of twenty-five dollars.¹

[L. 1827, 225, §§ 18-22.]

Name to be on each boat

§ 120. No boat shall receive a clearance, or be permitted to pass on any canal, which shall not have the name thereof, and of the place where it is owned, corresponding with its certificate of registry then in force, painted in some conspicuous and permanent part of the outside of the boat, in letters of at least four inches in height.

[L. 1827, 225, §§ 18-22.]

Bill of lading; its contents.

§ 121. Every master of a boat, conveying property on a canal, shall exhibit to the several collectors,¹ hereafter mentioned, a just and true account, or bill of lading, of such property, signed by himself and by the consignor thereof, containing:

1. The name of each place on the canal where any portion of such property was shipped, and of the place for which it is intended to be cleared.

2. A statement of the names, description and weight of all the articles of such property on which toll is charged by the ton, of the

¹ Office of collector of tolls abolished, L. 1883, ch. 165.

number of articles on which toll is charged by the number, and of the feet of each article on which toll is charged by the foot.

ART. 7

3. A specification of the weight or quantity of each article, where a different rate of toll is charged on different articles, on which toll is so computed.

4. No clearance of a boat and cargo shall be granted or issued by any collector of canal tolls, except upon the production to him of a bill of lading containing the above particulars. [*Thus amended by L. 1859, ch. 16.*]¹

§ 122. Every such account or bill of lading shall be exhibited,

To whom to be exhibited. 16 Barb., 79.

1. To every collector of whom a clearance shall be required.

2. To every collector whose office shall be the next in order, in the course of the voyage, to the place where a clearance shall have been given.

3. To every collector at a place where any portion of the cargo shall be unladen, or any additional cargo be received; or if there be no collector at such place, to the collector whose office shall be next in order in the course of the voyage.

[241]

4. To every other collector who shall demand such account, or bill of lading, to be exhibited.¹

[L. 1827, 220, § 1.]

§ 123. If there shall be no collector's office at the place where any articles shall be laden, nor at the place of their delivery, nor at any intermediate place, the master of the boat shall, within ten days after the delivery of such articles, exhibit the bill of lading thereof to the collector whose office shall be nearest to the place of such delivery, and shall pay to such collector the tolls due on such articles; and every master who shall omit to exhibit such bill, and to pay such tolls, within the period so limited, shall, for every offence, forfeit the sum of twenty-five dollars.¹

To whom to be exhibited.

[L. 1827, 220, § 1.]

[Sections 124 and 125 repealed by L. 1886, ch. 593.]

§ 126. Every collector receiving a bill of lading, may require the master exhibiting it, to verify it by his oath, which such collector is authorised to administer.¹

Bills how verified.

§ 127. Each boat navigating the canals shall have a separate clearance, and no part of the cargo of any boat shall be cleared to a place, beyond that, to which the boat is cleared.

Clearances.

[L. 1827, 224, § 16.]

§ 128. No boat shall proceed beyond the place to which it shall be cleared, nor unlade any article of its cargo before, or after, its arrival at the place for which such articles are cleared, nor proceed beyond such place, until the master thereof, shall have delivered the clearance of such boat or articles, to the collector, at the place for which they are cleared.¹

Regulation of boats.

[L. 1827, 224, § 16.]

§ 129. If there be no collector at such place, the master shall deliver the clearance of the boat or articles, to the last collector whose office shall be passed by the boat in the order of its voyage,

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Id.

¹ Office of collector of tolls abolished, L. 1883, ch. 165.

TITLE 9. and shall receive a permit from such collector, to proceed to the place to which they are cleared.¹

[L. 1827, 224, § 16.]

Penalty. § 130. Every master who shall omit to deliver a clearance to the collector, to whom the same ought to be delivered, shall forfeit the sum of twenty-five dollars.¹

[L. 1827, 224, § 16.]

Collectors to give copies. § 131. Every collector issuing any clearance, or in whose office any clearance is on file, shall, whenever requested, give a certified copy thereof, with the additional cargo entered thereon, and the several endorsements of other collectors.¹

[L. 1827, 224, § 17.]

Effect of copy; fees for making. § 132. Such certified copy shall have the same validity and effect, as the original clearance, of which it is a copy; and every collector shall demand and receive for such certified copy, not exceeding two folios, from the person requesting the same, six cents, and twelve and a half cents for all copies exceeding two folios, and shall account to the commissioners of the canal fund, for all sums which shall be so received, at such time, and in such manner, as the comptroller shall direct.¹

[L. 1827, 224, § 17.]

Tonnage. § 133. The tonnage of all articles conveyed on either of the canals, on which toll may be charged by the ton, shall be ascertained and charged, according to the real weight of such articles.²

[L. 1820, 187, §§ 13, 14.]

Articles, when to be weighed. § 134. Whenever a difference as to the amount of tolls to be paid, shall arise between a collector of tolls and the master of a boat, the collector shall detain the articles on which the tolls are charged, and the boat containing them, and shall weigh, count, or measure, the articles, as the case may require; and if it shall be found, that their weight, number, or feet, exceed the amount contained in the bill of lading thereof, the collector shall charge tolls, according to the weight, number, or feet thus found.^{1 2}

[L. 1820, 187, §§ 13, 14.]

Expense, how paid. § 135. In every such case, the master shall pay to the collector,¹ the expense of such weighing, counting or measuring, at the rate of twenty-five cents for every ton weighed; of five mills a-piece, of articles paying toll by the number; and of five cents for each hundred feet, of articles paying toll by the foot; and such expenses shall be chargeable on such articles, and on the boat containing them.^{1 2}

[L. 1820, 187, §§ 13, 14.]

Payments, how enforced. § 136. The master of every boat shall be liable for the payment of tolls and expenses; and it shall be the duty of every collector of tolls to detain all articles on which tolls or expenses are chargeable, and each boat containing them, until such tolls or expenses shall be paid.^{1 2}

[L. 1820, 189, § 18.]

¹ Office of collector of tolls abolished, L. 1888, ch. 165.

² Tolls abolished, Const., art. 7, § 3, as amended in 1882.

§ 137. If such payment be refused, the collector shall distrain so much of the property detained as shall be sufficient to satisfy the charges thereon; and at the expiration of eight days, if such charges shall remain unpaid, he shall expose to sale the property distrained, at his usual place of receiving tolls, and shall sell the same at public auction, to the highest bidder.¹

[L. 1820, 189, § 18.]

§ 138. Any surplus arising from the sale, after the payment of the charges and of the costs of distress and sale, shall be paid on demand to the master of the boat, or the owner of the property distrained.

[L. 1820, 189, § 18.]

§ 139. Every master of a boat which usually runs on the canal night and day, or which belongs to any regular line of packet or freight boats, shall during each navigable season on the canal, as often at least as once in thirty days, and oftener, if required by the canal board, and under such regulations as that board shall establish, deliver to some collector of tolls a statement of passengers, and shall verify the same under oath, to be administered to him by such collector; and at the same time shall pay to such collector the lawful tolls on the passengers mentioned in the statement.¹

[L. 1827, 226, § 23.]

§ 140. The first statement so delivered, shall contain the names of all the passengers conveyed in such boat, from the commencement of its running in that season, until the delivery of the statement, and the distance to which each passenger was carried; and each subsequent statement shall contain the names of all the passengers, and the distance to which each was carried in such boat, since the time embraced in the last previous statement.

[L. 1827, 226, § 23.]

§ 141. If it shall happen, that during the time for which a statement is required, no passengers shall have been conveyed in such boat, the master thereof shall present to some collector an affidavit to be sworn to before such collector, that no passenger has been conveyed in such boat, during the time specified therein.¹

[L. 1827, 226, § 23.]

§ 142. If it shall happen that different persons have been masters, or had charge of any boat, for the time during which the statement or affidavit above mentioned is required, each person shall furnish such statement or affidavit for such portion of the time, as such boat was under his control or management.

[L. 1827, 226, § 23.]

§ 143. The several collectors shall transmit to the comptroller, the several affidavits and statements relative to passengers, received by them; and every master who shall neglect to furnish the affidavit or statement or to pay the toll on any passengers, by law required, and every owner of such boat, when such neglect occurred, shall for each offence forfeit the sum of twenty-five dollars.¹

[L. 1827, 226, § 24.]

ART. 7.

[243]
Ib.

Surplus.

Statements
of passen-
gers in cer-
tain cases.

Contents
of first
statement.

When affi-
davit to be
made.

Different
masters.

Collector's
duty; pen-
alty on
masters,
&c.

¹ Office of collector of tolls abolished, L. 1888, ch. 165.

TITLE 9.**(344)****Further penalty.**

§ 144. The commissioners of the canal fund may, in their discretion, prohibit such boat from receiving a clearance and navigating the canals, until such statement or affidavit be furnished, and the tolls paid.²

[L. 1827, 226, § 24.]

Collectors to acquire knowledge statement, &c.

§ 145. Every collector receiving such a statement, or affidavit, relative to passengers, shall give to the person from whom he received the same, a written acknowledgment thereof.¹

[L. 1827, 226, § 25.]

Evidence of neglect to make statement.

§ 146. A certificate made by the comptroller, under the seal of his office, after thirty days from the time when such a statement or affidavit ought to be made, that no statement or affidavit in respect to any particular boat, for the time particularly stated therein, has been received at his office, shall be presumptive evidence, that no such statement or affidavit has been made by the master of such boat for the time specified in the certificate.

[L. 1827, 226, § 25.]

Tolls on passengers in certain boats.

§ 147. Every master or person having charge of any boat navigating a canal, which does not usually run in the night time, or which does not belong to any regular line of packet or freight boats, shall pay the lawful tolls on all passengers conveyed in such boat, in the same manner as he is required to pay toll on property conveyed; and every such master who shall omit to give a just and true account of such passengers, to the collector, at the place where such passengers shall be received in such boat, or at the office next in order in the course of the voyage, after receiving the same, or who shall refuse to verify the same under oath, when required by any collector, or to pay the toll on such passengers, shall for every offence forfeit the sum of twenty-five dollars.^{1 2}

[L. 1827, 226, § 23.]

Commutation for tolls.

§ 148. The commissioners of the canal fund may, in their discretion, receive from the owners of any boat a specified sum by the year, for a license to carry passengers therein, as a commutation for tolls upon passengers.

[L. 1827, 226, § 26.]

How paid.

§ 149. Such commutation shall be paid at such time and in such manner as the commissioners may prescribe, and no statement or affidavit relative to conveying passengers, shall be required from the master of any boat so licensed.

[L. 1827, 226, § 26.]

Clerks of collectors.

§ 150. Any clerk duly authorised by a collector may perform all the duties and exercise all the powers legally appertaining to such collector, in his absence, and the collector shall be responsible for the acts of such clerk.¹

Berths of boats.

§ 151. It shall be the duty of every collector of tolls, and if there be no collector present, of every superintendent, to assign berths to all boats when loading or unloading at any landing place on a canal whenever disputes shall arise concerning the same.¹

[L. 1827, 229, § 40.]

¹ Office of collector of tolls abolished, L. 1883, ch 165.

² Canal tolls abolished, Const., art. 7, § 8, as amended in 1883.

§ 152. No float shall move on any canal faster than at the rate of four miles an hour without a permission in writing, signed by a majority of the canal commissioners; and for each violation of this provision the master shall forfeit the sum of ten dollars.¹

ART. 7.

(245)
Speed of
boats, &c.

[L. 1823, 320, § 4.]

§ 153. Where a boat used chiefly for the conveyance of persons, shall overtake any other float, not used chiefly for that purpose, it shall be the duty of the master of the latter to give to the former, every practicable facility for passing, and whenever it shall become necessary, to stop, until such passage boat shall have fully passed.

Preference
in passing.
84 Barb.,
613

[L. 1820, 186, § 10.]

§ 154. Where any float, in passing on either of the canals, shall meet with any other float, it shall be the duty of the master of each, to turn out to the right hand, so as to be wholly, on the right side of the center of the canal.

Boats
meeting.

[L. 1820, 186, § 9.]

§ 155. Where any floats shall approach any place on either of the canals, which is less than thirty feet wide on the surface, or which will not safely permit their passing, it shall be the duty of the master of the float going from the navigable waters of the Hudson river, to stop at such distance from such narrow place, as may be convenient for the float going towards such navigable waters to pass through such narrow place, and there to wait until such passage is effected.

Do.

[L. 1820, 186, § 9.]

§ 156. Every master or boatman violating any provision of the three sections immediately preceding, shall, for each offence, forfeit the sum of ten dollars.

Penalties.

§ 157. Every float, within one hundred yards of a lock, if on the same level that the water in the lock then is, shall be permitted to pass the lock, before any other float not on the same level.

Passing
locks.

[L. 1827, 228, § 31.]

§ 158. If, on the arrival of two or more floats at any lock, a question shall arise between their respective masters as to which shall be first entitled to pass, such question shall be determined by the lock-keeper, and each float shall be passed in the order and manner in which he shall direct.

Do.

[The same.]

§ 159. Every master, owner or navigator of any float refusing to conform to such determination of the lock-keeper, or detaining or unnecessarily hindering the passage of any float, through a lock, in violation of any provision of the two last sections, shall for each offence, forfeit the sum of twenty-five dollars.

Penalties.

[The same.]

§ 160. No person navigating either of the canals, shall be permitted to use therein any setting pole or shaft, pointed with iron or other metal; and if any person shall offend against this section, he shall, for every such offence, forfeit the sum of twenty-five dollars.

Setting
poles, &c.

[L. 1820, 188, § 16.]

§ 161. No covered or decked boat, shall navigate any canal without a knife or sharp metallic instrument, so affixed upon the stem or

(246)
Knife on
bow.

¹ Office of canal commissioner abolished, Const., art. 5, § 3, as amended in 1876.

- TITLE 9.** bow of the boat, as to cut apart any tow rope, which otherwise might pass over such bow.
[L. 1827, 222, § 7.]
- Penalty.** § 162. Every owner or master of such boat, who shall neglect or refuse to comply with the above provision, shall, for each offence, forfeit the sum of twenty-five dollars.
[The same.]
- Obstructing, &c.** § 163. Every person who shall obstruct the navigation of any canal, by the improper mooring, management or conduct, of any boat or floating thing, shall, for every such offence, forfeit the sum of twenty-five dollars.
[L. 1827, 221, § 3.]
- Obstructing, &c.** § 164. If any person shall obstruct the navigation of any canal, by sinking any vessel, timber, stone, earth or other thing, to the bottom thereof, or by placing any obstruction on the towing path thereof, or on the bank opposite the towing path, he shall forfeit the sum of twenty-five dollars.
[L. 1820, 185, § 6.]
- Boat, &c., to be seized.** § 165. It shall be the duty of every canal commissioner, collector, superintendent or agent, employed on the canals, to seize all boats, rafts, logs, or any floating or sunken thing, which may be found in a canal; or any article not under the care or charge of any person, so found on the tow path thereof; and to sell the same at public vendue, after giving ten days' written notice of such sale, at two public places nearest to the place where such boat, logs, floating or sunken thing may be found.¹
[L. 1827, 221, § 4.]
- Owner may stop sale.** § 166. If the owner of any article so seized, shall appear and claim the same, before the time of sale, and pay the cost of seizure and expense of removal, no such sale shall take place.
[The same.]
- Avails, how accounted for.** § 167. The avails of such sale shall be accounted for, by the officer making the same, if he be not a collector, to the nearest collector, who shall make returns thereof to the commissioners of the canal fund. If the sale be made by a collector, he shall account for the avails thereof, to the commissioners of the canal fund.¹
[The same.]
- When paid to owners.** § 168. After such sale shall have been made, and the proceeds thereof paid to the commissioners of the canal fund, such commissioners may, on the application of the owners, and due proof of ownership, pay over such proceeds, after deducting the forfeiture, and all costs and reasonable charges thereon.
[The same.]
- Taking rails, &c., penalty.** § 169. If any boatman, or person on board of any boat on any canal, shall take, without right, any rails, boards, planks or staves, from the banks or vicinity of the canal, the master of the boat shall forfeit, to the owner, treble the value of the property taken, and the possession of such property on board the boat, shall be presumptive evidence of such taking.
[L. 1827, 228, § 33. See L. 1830, ch. 117, *post*, whereby fire-wood and fencing posts are included in this and the next four sections.]

[§47]

¹ Office of canal commissioner abolished, Const., art. 5, § 3, as amended in 1876. Office of collector of tolls abolished, L. 1883, ch. 165.

§ 170. Any person or boatman, who shall violate the provisions ^{ART. 7.} of the last section, shall forfeit twenty-five dollars to any person ^{ib.} who will prosecute therefor.

[L. 1828, 224, ch. 185, §§ 1 and 2. See L. 1830, ch. 117.]

§ 171. Every penalty and forfeiture, prescribed by this article, and which is declared to be recoverable against the owner, master, boatman, navigator, or other person having charge of any boat or other float, when incurred, shall be chargeable on such boat or float, and a suit for the recovery thereof, may be brought against any person, being in the possession, or having the charge, of such boat or other float, at the time such suit is commenced.

[L. 1827, 227, §§ 28 and 29. See L. 1830, ch. 117.]

§ 172. When any suit shall be prosecuted for any such penalty or forfeiture, the magistrate issuing the process, by a clause to be inserted therein, may direct the officer executing the same, to detain such boat or float, and the furniture and horses belonging thereto, until the suit shall be determined, or until adequate security shall be given for the payment of any judgment that may be recovered.

[See L. 1830, ch. 117.]

§ 173. If such security shall be given, or the defendant in such suit shall prevail, the magistrate shall order the boat or other float and property detained to be released; but if no such security shall be given, and a judgment shall be recovered for such penalty or forfeiture, and the same, together with the costs shall not be immediately paid, an execution shall be issued, under which the property so detained, may be sold, in like manner, as if the judgment had been obtained against the owner thereof.

[See L. 1830, ch. 117.]

L. 1830, Chap. 117 — An act to amend the seventh article of title nine of chapter nine of the first part of the Revised Statutes.

Fencing and firewood. SECTION 1. The provisions of sections one hundred and sixty-nine, one hundred and seventy, one hundred and seventy-one, one hundred and seventy-two, and one hundred and seventy-three, of said article, are hereby amended so as to include fire-wood and fencing-posts in the list of articles therein enumerated, and intended to be secured from depredation.

L. 1833, Chap. 196—An act to prevent the interruption of the navigation of the canals.

Duty of canal commissioners. SECTION 1. Whenever the navigation of any of the canals shall be interrupted or endangered by reason of a deficiency of water, it shall be the duty of the canal commissioners, without delay, to supply such deficiency; and for that purpose they shall, by themselves or their agents, resume the temporary use of all the surplus waters which shall have been leased upon the level of the canal where such deficiency exists; and in such case, if there shall still be a deficiency of water, then they shall have power to enter upon and use all lands, streams and waters, which in their judgment may be necessary or proper to be used, to procure a temporary supply of water for such canals.¹

13 N. Y., 244; 19 Barb., 657; 11 Barb., 387; 4 Denio, 356.

Damages. § 2. When damages shall be claimed by the owner of any lands, streams or waters, which shall have been used for temporary purposes under the authority given in the preceding section, such damages shall be agreed upon, or appraised and paid, in the same manner as is provided for the agreement or ap-

¹ Office of canal commissioner abolished, Const., art. 5, § 3, as amended in 1876.

praisal and payment of damages, in cases where land shall have been occupied for temporary purposes, or from which materials shall have been obtained for repairs; but no damages shall in any case be allowed for resuming the use of any surplus waters of the canals leased to any individuals.¹

Id. § 3. The damages which any owner of lands, streams or waters, may have sustained at any time within two years prior to the passage of this act, by reason of the temporary use, by the canal commissioners or their agents, of such lands, streams or waters, for the purpose of preventing the interruption of the navigation of any canal, shall be agreed upon or appraised and paid, in the manner provided in the preceding section: provided application for such damages shall be made within one year after the passage of this act.¹

L. 1861, Chap. 124 — An act concerning the navigation of the canals and the collection of tolls.

Speed of boats. SECTION 1. Any boat may move on any of the enlarged canals of this state, at any rate of speed that may be fixed by the canal board, not exceeding six miles an hour.

Steamboats to have the right to pass. § 2. When any boat propelled or towed by steam, in passing on either of the canals of this state, shall meet or overtake any other boat or float, not so propelled or towed, except when such boat or float is waiting its turn for lockage, it shall be the duty of the master of each, to turn out so as to allow the boat propelled or towed by steam, to pass on the berme side of the canal. Every master or boatman, who shall violate any provision of this section, shall for each offence, forfeit the sum of ten dollars.

[Section 5 and part of section 4 were repealed by L. 1886, ch. 593. Section 3 and the remainder of section 4 relate to collectors and weighmasters, and are omitted as obsolete.]

Duties of auditor. § 6. The auditor of the canal department¹ is authorized and required, whenever there is a short supply of water for the Syracuse level, insufficient to maintain fully seven feet in depth upon all portions thereof, and supply the Oswego canal, to suspend the weighing of boats at the Syracuse weigh-lock, and stop all use or leakage of water through the same; and in case of such deficiency the canal commissioners² are authorized and directed to make any arrangement to supply the same within their power, which shall not cost over thirty thousand dollars for the first year, and not to exceed five thousand dollars a year thereafter.

Repeal. § 7. All acts and parts of acts inconsistent with this act are hereby repealed.

L. 1870, Chap. 656 — An act to authorize the canal board to change the present system of weighing boats and cargoes on the canals of this state, and appropriating money for that purpose.

New system of weighing boats may be adopted. SECTION 1. The canal board is hereby authorized to adopt the "Reims Champion Boat Scale," in place of the present system of weighing boats and cargoes on the canals of this state, if they are fully satisfied from tests already made, or from further tests as they shall deem necessary, that the interests of the state will be subserved thereby, and they are hereby empowered to contract with the owners of the "Reims Champion Boat Scale," for the use of said scale on the various canals of the state.

Payments, how made. § 2. The state treasurer shall pay, on the warrant of the auditor of the canal department or the comptroller, out of any funds appropriated for canal purposes, the moneys necessary to carry out the first section of this act.

¹ Office of canal commissioner abolished, Const., art. 5, § 3, as amended in 1876.

² Office of auditor abolished, and duties transferred to comptroller, L. 1883, ch. 69.

L. 1883, Chap. 165—An act to abolish the offices of collectors of canal tolls, weighmasters and assistant weighmasters upon the canals of this state.

Offices abolished. SECTION 1. The offices of collectors of canal tolls, weigh-masters and assistant weigh-masters upon the canals of this state are hereby abolished, and any work heretofore performed by any of the said officers, and which is hereafter to be required, shall be performed by the persons employed by the superintendent of public works in the care and management of the canals.

Repeal. § 2. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

[Supplementary Article.]

ARTICLE 7^A.

OF STREAM AND OTHER MECHANICAL TOWAGE.

L. 1870, Chap. 576—An act to provide for the introduction of the European system of steam towage upon the canals of this state.

Organization of a company. SECTION 1. Permission is hereby granted to Addison M. Farwell, of Watertown, New York, his associates and successors, who may organize a corporation under the act entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical and chemical purposes," passed February seventeen, eighteen hundred and forty-eight, and any act or acts amendatory thereof, to introduce upon the canals of this state the "European system" of steam towing.

Powers and duties of company. § 2. The said Farwell, his associates and successors, who shall organize as provided in previous section, are hereby authorized and empowered to tow boats, floats and cargoes on the canals of this state for hire, and for that purpose may purchase and construct, or cause to be constructed, the necessary appliances for carrying on the business of canal towing under the said European method, and shall have the exclusive right and privilege, during the term for which said corporation may be organized, to submerge or place one or more chains or cables on the bottom of the canals of this state, and attach the same thereto in such manner as will not interfere with navigation; and shall have the exclusive right to use such submerged chains and cables, designated and known as the European system, in the prosecution of the peculiar method of towing thereby. And whenever and wherever it may be necessary so to do, the said Farwell, his associates and successors, or corporation aforesaid, are hereby authorized and empowered to own and employ other motive power in connection with said chain or cable process, provided the same shall not interfere with navigation. Nothing, however, in this section contained shall be construed as excluding other parties from the right or privilege of propelling or towing themselves or others by the agency of steamboats, propellers, elevated railway or animal power, but simply to vest in the said Farwell, his associates and successors, or corporation organized as aforesaid, the exclusive right to lay and use chains or cables in the prosecution of the European system of towing thereby.

[Section 3 repealed by L. 1886, ch. 593. Sec. 4 obsolete.]

Expiration of act. § 5. In case said Farwell, his associates and successors, or corporation aforesaid, shall neglect or fail to introduce said system of towing on the Erie canal within eighteen months after the passage of this act, all rights and privileges herein granted shall cease.

Powers of canal board. § 6. Nothing herein contained shall be construed to exclude the system of towage hereby authorized from the supervision and control of the canal board; but the same shall be subject to all the rules and regulations from time to time established by the canal board for the navigation of the canals.

Repeal. § 7. The legislature may, at any time, alter, modify or repeal this act.

L. 1870, Chap. 855—An act to provide for the introduction of an improved system of steam towage upon the canals of this state.

Company may be organized. SECTION 1. Permission is hereby granted to Norman W. Kingsley of New York and Charles H. Gardner of Brooklyn, their associates and successors, who may organize a corporation under the act entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical and chemical purposes," passed February seventeenth, eighteen hundred and forty-eight, and any act or acts amendatory thereto, to introduce upon the canals of this state an improved system of steam towage, by the use of chains, cables or rails suspended over the canal, under a patent or patents to be held or acquired by said corporation, with the exclusive right to use the said system thereon, during the full term for which the said corporation may be organized.

Its powers and duties. § 2. The said Norman W. Kingsley, Charles H. Gardner, their associates and successors, as heretofore specified, are hereby authorized and empowered to transport cargoes, and to tow boats and floats, loaded or unloaded, for hire upon the canals of this state, at a rate of speed not exceeding four miles per hour, and which shall not work injury thereto, and for such purpose may purchase, construct, erect and use thereon, such boats, boilers, engines, apparatus, suspended rails, chains, or cables, and machinery, as shall be necessary to apply and operate said improved system of steam towage, in such manner as shall not interfere with navigation on said canals. Nothing, however, in this section contained shall be construed as excluding other parties from the right or privilege of propelling or towing any boat or float upon the canals of this state by the agency of steamboats, propellers, tugs, chains, cables, elevated railways, engines or animal power, but simply to vest in the said Norman W. Kingsley, Charles H. Gardner, their associates and successors, or corporation organized as aforesaid, the exclusive right to apply and operate the said improved system of towage.

[Section 3 omitted as obsolete.]

Expiration of act. § 4. In case the said Norman W. Kingsley, Charles H. Gardner, their associates and successors, or corporation aforesaid, shall neglect or fail to introduce said system of towing on the Erie canal within three years after the passage of this act, all rights and privileges herein granted shall cease. [Thus amended by L. 1871, ch. 903.]

Powers of canal board. § 5. Nothing herein contained shall be construed to exclude the system of towage hereby authorized from the supervision and control of the canal board, but the same shall be subject to all the rules and regulations established, and to be established by the canal board for the navigation of the canals.

Repeal. § 6. The legislature may, at any time, alter, modify or repeal this act.

L. 1871, Chap. 868—An act to foster and develop the internal commerce of the state by inviting and rewarding the practical and profitable introduction upon the canals, of steam, caloric, electricity, or any motor other than animal power, for the propulsion of boats.

Commissioners to test motor power other than animal, on canals; how and when examination shall take place; may reject inventions; parties owning inventions to pay cost of testing; boats to carry two hundred tons; rate of speed; requirements; simplicity, etc., an element of worth; must be adapted; must satisfy commissioners; requirements to entitle to benefits; not to apply to Belgian system, nor to power on banks of canals. SECTION 1. George B. McClellan, Horatio Seymour, Erastus S. Prosser, David Dows, George Geddes, Van R. Richmond, Willis S. Nelson, George W. Chapman, William W. Wright and John D. Fay are hereby appointed a commission to practically test and examine inventions, or any and all devices which may be submitted to them for that purpose, by which steam, caloric, electricity, or any other motor than animal power, may be practically and profitably used and applied in the propulsion of boats upon the canals; said examination and tests shall be had by the said commissioners at such time or times during the season of canal navigation, for the year eighteen hundred and seventy-one and seventy-two, as they may

order and direct; said commissioners shall have the right, and they are hereby expressly required to reject all such inventions or devices, if in their opinion none of the said inventions or devices shall fully and satisfactorily meet the requirements of this act; but said commissioners shall demand and require: *First.* The inventions and devices to be tested and tried at their own proper costs and charges of the parties offering the same for trial. *Second.* That the boat shall, in addition to the weight of the machinery and fuel reasonably necessary for the propulsion of said boat, be enabled to transport, and shall actually transport, on the Erie canal on a test or trial exhibition, under the rules and regulations now governing the boats now navigating the canals at least two hundred tons of cargo. *Third.* That the rate of speed made by said boat shall not be less than an average of three miles per hour, without injury to the canals or their structures. *Fourth.* That the boat can be readily and easily stopped or backed by the use and power of its own machinery. *Fifth.* That the simplicity, economy and durability of the invention or device must be elements of its worth and usefulness. *Sixth.* That the invention, device or improvement can be readily adapted to the present canal boats; and, lastly, that the commissioners shall be fully satisfied that the invention or device will lessen the cost of canal transportation and increase the capacity of the canals. Any means of propulsion or towage other than by a direct application of power upon the boat which does not interfere in any manner with the present method of towage on the canals, and complying in all other respects with the provisions of this act, may be entitled to the benefits thereof; but this shall not be construed to apply to the system known as the Belgian system, or to any mode of propulsion by steam engines or otherwise upon either bank of the canal.

Manner of testing. § 2. No such test shall be made if the same shall in any manner retard, hinder, or delay the passage of boats navigating the canals under the present system.

Duty and privileges of commissioners; may grant certificates of perfection; number of certificates. § 3. If the commissioners herein appointed shall, upon such examination and test as is provided for in the first section of this act, conclude and determine at any time that one or more inventions or devices aforesaid, but not to exceed three in number, shall be in all respects a full and satisfactory, practicable and profitable adaptation to the wants of the canals by reason of a new, useful and economical means of propulsion for boats within the meaning of this act, it shall then, and not otherwise, be their duty to grant unto the owner or owners of such inventions or devices, his or their attorney, their certificate or certificates under their hands as such commissioners, that they have so determined and adjudged to the owner or owners of the invention or device which, in the judgment of said commissioners, possesses in the greatest degree of perfection the requisites mentioned in the first section, they shall grant a certificate which shall be known as certificate No. one; and to the owner or owners of the next best invention or device they shall grant a certificate as aforesaid, which shall be known as certificate No. two; and to the owner or owners of the third best invention or device they shall grant a certificate as aforesaid, which shall be known as certificate No. three.

Commissioners to take oath of office; governor to fill vacancies. § 4. Before entering upon the duties of his office each commissioner herein named shall take and subscribe an official oath, which shall be filed at once in the office of the secretary of state. Any vacancy arising from any cause in said commission, may be filled, on the application of the remaining commissioners, by the governor.

Expense of commissioners to be paid out of sum awarded to persons receiving certificates; treasurer to pay on warrant of comptroller. § 5. The reasonable expenses of the said commission, not exceeding in all the sum of five thousand dollars, to be determined by the said board, shall be paid out of any sum which may be awarded to the person or persons receiving the certificates mentioned in the third section of this act, in proportion to the amount awarded to the holders of said

certificates, provided such certificates shall be granted; and if no such certificates shall be granted, then the same shall be paid by the treasurer on the warrant of the comptroller out of any moneys in the treasury not otherwise appropriated.

Comptroller to draw warrant for payment of certificates; warrants for each certificate; how payments shall be apportioned. § 6. Upon the production by the owner or owners, or his or their attorney, of such certificate or certificates as may be granted under the provisions of this act, to the comptroller, he shall draw his warrant upon the treasurer of the state of New York for the sum of fifty thousand dollars, payable to the said owner or owners of said invention, device, his or their attorney, out of any money in the treasury not otherwise appropriated, in case but one certificate shall have been granted by said commissioners. If two certificates shall have been granted, and no more, then the said comptroller shall draw his said warrant upon the said treasurer for the sum of thirty-five thousand dollars, payable to the owner or owners of certificate No. one; and said comptroller shall also draw his said warrant upon the said treasurer for the sum of fifteen thousand dollars, payable to the owner or owners of certificate No. two. If three certificates shall be granted by said commissioners, then and in that case the said comptroller shall draw his said warrant upon the said treasurer for the sum of thirty thousand dollars, payable to the owner or owners of certificate No. one; and one of fifteen thousand dollars, payable to the owner or owners of certificate No. two; and one of five thousand dollars, payable to the owner or owners of certificate No. three.

Appropriation to be made by comptroller, on successfully operating. § 7. If, on or before the first day of November, eighteen hundred and seventy-three, the commissioners hereinbefore named shall, upon due examination, find and determine that the said invention or device has been successfully operated upon the canals, and has been or will be largely adopted as a motor on said canals by reason of its superiority over any other known method of propulsion, then and in such case they shall grant a further certificate of that fact, and the comptroller, upon its presentation to him, shall draw his warrant upon the treasurer of the state for the further sum of fifty thousand dollars, payable to the said owner or owners of the said device, his or their attorney, out of any money in the treasury not otherwise appropriated; but in case of the granting by said commissioners of more than one certificate, as stated in section six of this act, then and in that case the sum of fifty thousand dollars, mentioned in this section, shall be divided among and paid to the owners of the said certificates in the proportion, and in the manner as stated in section six of this act.

L. 1873, Chap. 480—An act to amend an act entitled “An act to foster and develop the internal commerce of the state, by inviting and rewarding the practical and profitable introduction upon the canals of steam, caloric, electricity, or any motor other than animal power, for the propulsion of boats,” passed April twenty-eight, eighteen hundred and seventy-one.

Powers of commissioners continued for one year. SECTION 1. Chapter eight hundred and sixty-eight of the laws of eighteen hundred and seventy-one, entitled “An act to foster and develop the internal commerce of the state, by inviting and rewarding the practical and profitable introduction upon the canals of steam, caloric, electricity, or any motor other than animal power, for the propulsion of boats,” is hereby amended so as to continue the powers of the commissioners appointed therein one year beyond the time limited by sections one and seven of said act.

L. 1871, Chap. 911 — An act to provide for the introduction of the American system of cable towage upon the canals of this state.

May introduce on canals improved system of towage. SECTION 1. Permission is hereby granted to James Richmond and William S. Farnell, of the city of Lockport, New York, their associates and successors, who may organize a corporation under the act entitled "An act to authorize the formation of corporations, for manufacturing, mining, mechanical and chemical purposes," passed February seventeenth, eighteen hundred and forty-eight, and any act or acts amendatory thereof, to introduce upon the canals of this state an improved system of cable towage, under a patent or patents to be held or acquired by said corporation, with the exclusive right to use the said system thereon, during the full term for which the said corporation may be organized.

May transport cargoes, etc.; rate of speed; what motor may be used; not to obstruct navigation; may not exclude others from towing, etc.; exclusive right to improved system. § 2. The said James Richmond, William S. Farnell, their associates and successors, as heretofore specified, are hereby authorized and empowered to transport cargoes, and to tow boats and floats, loaded or unloaded, for hire, upon the canals of this state, at a rate of speed not exceeding four miles per hour, and which shall not work unusual and permanent injury thereto; and for such purpose may purchase, construct, erect and use thereon, such boats, boilers, engines, apparatus, chains, cables, structures and machinery, as shall be necessary to apply and operate said improved system of cable towage, in such manner as shall not interfere with navigation on said canal. Nothing, however, in this section contained, shall be construed as excluding other parties from the rights or privileges of propelling or towing any boats or floats upon the canals of this state, by the agency of steamboats, propellers, tugs, chains, cables, elevated railways, engines or animal power, but simply to vest in the said James Richmond and William S. Farnell, their associates and successors, or corporation organized as aforesaid, the exclusive right to apply and operate the said improved system of cable towage.

[Section 3, relating to tolls, omitted.]

On neglect or failure, privilege to cease. § 4. In case the said James Richmond, William S. Farnell, their associates and successors, or corporation aforesaid, shall neglect or fail to introduce said system of towage on the Erie canal, within eighteen months after the passage of this act, all rights and privileges herein granted shall cease.

System of towing to be under control of canal board. § 5. Nothing herein contained shall be construed to exclude the system of towage hereby authorized from the supervision and control of the canal board, but the same shall be subject to all the rules and regulations established, and to be established, by the canal board for the navigation of the canals.

Legislature may repeal or modify. § 6. The legislature may, at any other time, repeal, alter or modify the provisions of this act.

L. 1872, Chap. 550 — An act to encourage steam towage upon the canals of this state.

Portion of canal to be allotted for experimenting with road steam towage. SECTION 1. The canal commissioners are hereby authorized and directed to allot and set out to D. O. Williamson a distance on the Erie canal of not less than five miles, at such point as may be most convenient and suitable, for the purpose of experimenting with his road steam engine for the towage of boats, said experiments being made under the direction of said commissioners.

L. 1876, Chap. 387 — An act to encourage improvement in steam canal propulsion in this state.

Allotment for testing steam power on canals. SECTION 1. The canal commissioners are hereby authorized and directed to allot and set out to Hugh Stevenson and Enos W. Peloubet and to each of them a distance on the Erie canal of not less than five miles, at such point as may be most convenient and suitable, for the purpose of experimenting with his or their method of steam canal boat propulsion. Said experiments to be under the direction of the said commissioners and at the expense of the said Hugh Stevenson and Enos W. Peloubet, respectively, provided that the navigation of the canal for the purposes of commerce be not interfered with.

L. 1877, Chap. 366 — An act to provide for the introduction of the "Stevenson traction system of towage" on the Erie canal.

Permission to use Stevenson traction system. SECTION 1. Permission is hereby granted to "The Stevenson Steam Canal Boat Company," its successors and assigns, to introduce upon the Erie canal the Stevenson traction system of towage under a patent held by the said corporation, and under any amendments or improvements which may be made thereto, with the right to use the said system on the said canal.

Powers granted to the Stevenson company. § 2. The said Stevenson Steam Canal Boat Company, its successors and assigns, are hereby authorized and empowered to tow boats, loaded or unloaded, for hire, upon the said Erie canal, at a rate of speed not exceeding four miles per hour, and which shall not work unusual or permanent injury thereto, and for such purpose shall have the right and privilege to build, construct, erect and maintain in and upon the berme bank of the Erie canal, such structures as shall be necessary and proper to apply and operate the said Stevenson traction system of towage in such manner as shall not interfere with navigation on the said canal, and may construct, maintain and use on said canal such boats, boilers, engines, apparatus, structures and machinery as shall be necessary and proper to apply and operate the said Stevenson traction system of towage in such manner as shall not interfere with navigation on said canal, but no structure shall be erected contrary to the instructions of the canal commissioners or superintendent of public works, nothing, however, in this section contained shall be construed as excluding other parties from the rights or privileges of propelling or towing any boats or floats upon the said Erie canal by the agency of steamboats, propellers, tugs, chains, cables, engines, or other rail or traction system or animal power, but simply to invest in the said corporation, its successors and assigns, the right and privilege to apply and operate the said Stevenson traction system of towage.

Machinery, etc., exempt from tolls. § 3. The machinery, engines and boilers used in pursuance of this act, the boats carrying the same, and the fuel and materials necessarily used in propelling the necessary boats and machinery to operate the said towage system, shall be exempt from the payment of tolls upon the said Erie canal, but in no case shall fuel or material be exempt from the payment of tolls except when on boats actually using the said fuel and materials.

Limitation § 4. In case the said Stevenson Steam Canal Boat Company, its successors or assigns, shall neglect or fail to introduce said system of towage on the Erie canal within two years after the passage of this act, all rights and privileges herein granted shall cease, and said company shall remove all structures erected by them on the bank of the canal if required to do so by the canal board.

Subject to canal board. § 5. The system of towage hereby authorized shall be subject to the supervision and control of the canal board, and the same shall be subject to all the rules and regulations established, and to be established by the canal board for the navigation of the canals.

Act may be altered, etc. § 6. The legislature may at any time alter or modify the provisions of this act, or revoke any of the privileges hereby conferred.

L. 1877, Chap. 371 — An act to provide for the introduction of an improved system of steam towage upon the canals of the state.

Allotment of distance on Erie canal for trial of Baker's steam towage. SECTION 1. The canal commissioners are hereby authorized to allot a distance on the Erie canal of five miles, which shall present such difficulties as are likely to be encountered, and to allow Halsey H. Baker, inventor and patentee, to practically test his single rail system of steam towage for canals.

Application and operation of same on canals. § 2. If such test of said system be satisfactory to a majority of said commissioners in all essential requirements, and they shall deem its introduction on the canals best for the interests of the state, they shall so certify, and thereupon said Halsey H. Baker, and those whom he may associate with him, are hereby authorized and empowered to apply and operate said system on the canals of this state in such manner as shall least interfere with animal, steam or other systems of towage, under such reasonable requirements as shall be made by said commissioners.

[Section 3, relating to tolls, omitted.]

Rights and privileges when to cease. § 4. The rights and privileges hereby granted shall cease, if within two years after such certification, said system shall not be introduced on the Erie canal.

System of towage to be under control of canal board. § 5. Nothing herein contained shall be construed to exclude the system of towage hereby authorized from the supervision and control of the canal board, but the same shall be subject to all the rules and regulations established and to be established by the canal board for the navigation of the canals.

Act may be altered, etc. § 6. The legislature may at any time repeal, alter or modify the provisions of this act.

ARTICLE EIGHTH.

ART. 8.

REGULATIONS AND PENALTIES CONCERNING THE PROTECTION AND MAINTENANCE OF THE CANALS.

- SEC. 174. Where new roads cross canal, bridge to be erected and kept in repair at expense of town in which situate.
175. Sanction of canal commissioner to model of bridge, must be obtained.
176. Penalty of fifty dollars for proceeding to build bridge without such consent.
177. No wharf, etc., constructed on canal, without consent of a commissioner.
178. Penalty of twenty-five dollars for constructing wharf, etc., without permission.
- 179 & 180. [Repealed.]
181. Penalty of five dollars for driving or riding any horse, etc., on tow path, except in towing boats, etc.
182. [Repealed.]

TITLE 9.
Bridges.
 50 N. Y.,
 296.
 [248]

§ 174. In all cases where a new road or public highway, shall be laid out by legal authority, in such direction as to cross the line of any canal, and in such manner as to require the erection of a new bridge over the canal, for the accommodation of the road, such bridge shall be so constructed, and forever maintained, at the expense of the town in which it shall be situate.

[L. 1820, 183, § 1.]

ib. § 175. No bridge shall be constructed across any canal, without first obtaining for the model and location thereof, the consent in writing of one of the canal commissioners, or of a superintendent of repairs, on that line of the canal which is intersected by the road.

[The same.]

Penalty. § 176. Every person who shall undertake to construct or to locate such bridge without such consent, and shall proceed therein, so far, as to place any materials for that purpose, on either bank of the canal, or on the bottom thereof, shall forfeit the sum of fifty dollars; and either of the commissioners, superintendents or engineers, shall be authorised to remove all such materials, as soon as they are discovered, wholly without the banks of the canal.

[L. 1820, 183, § 1.]

Wharves,
 basins, &c.
 5 Lans.,
 400; 21
 Hun, 74.

§ 177. No person, without the written permission of a canal commissioner, shall construct any wharf, basin or watering place, on any canal, or make or apply any device whatever, for the purpose of taking water from a canal; and every wharf, basin, watering place or device, constructed with such permission, shall be held during the pleasure of the canal commissioners, and be subject to their control.

[L. 1820, 186, § 11.]

Penalty. § 178. Every person who shall construct any such wharf, basin, watering place or device, without permission, or who shall omit to conform to the directions of the commissioner granting such permission, shall for each offence forfeit the sum of twenty-five dollars; and in every such case, the canal commissioners may remove or destroy the construction illegally made, at the expense of the person making it.

[L. 1820, 186, § 11.]

[Sections 179 and 180 repealed, L. 1886, ch. 593.]

[249]
 Driving
 horses on
 tow-path
 &c.
 3 Lans.,
 210.

§ 181. Every person who shall lead, ride, or drive any horse, ox, ass, mule, or other cattle, upon the towing-path of a canal, or upon the bank opposite to such towing-path, shall, for each offence, forfeit the sum of five dollars; but this section shall not be construed

to extend to persons towing boats or other floats, or conveying articles unladen or to be laden, from, or to, a canal. ART. 8.

[L. 1820, 183, § 2.]

[Section 182 repealed L. 1886, ch. 593.]

L. 1839, Chap. 207 — An act in relation to bridges over the enlarged Erie canal.

Road and street bridge, when to be constructed. SECTION 1. The canal commissioners are hereby authorized and required to construct and hereafter maintain at the public expense, road and street bridges over the enlarged Erie canal, in all places where such bridges have been heretofore constructed, if in their opinion the public convenience requires that they should be continued, whether the same have been heretofore maintained at the expense of the state, or of the towns, cities or villages where they are situate.

7 Lans., 220.

Farm bridges; proviso. § 2. The said commissioners are also authorized to construct farm bridges over said canal in all places where the same, in their opinion, are reasonably required, in reference to the accommodation of the owner of the land and a due regard to economy, to the state, and the convenience of navigation. But neither this nor the preceding section shall be construed to abridge the power of the canal commissioners in relation to streets, roads and bridges, as now provided by law.

7 Lans., 220.

Benefits from bridges to be set off against damages. § 3. Whenever a farm bridge shall be constructed in lieu of one heretofore maintained by the owner or owners of the land, and damages shall be claimed by such owner or owners for the appropriation of lands or other injury done in such enlargement, the benefit derived by such owner or owners, by being relieved from the expense of maintaining the former bridge over the canal, shall be set off against any damages so claimed.

Commutation for bridges; damages for not building. § 4. The said commissioners are also hereby authorized in all cases, where in their opinion the same can be done consistent with the public interest, to commute with owners and claimants of bridges over the canal, by paying such owner or claimant such sum in lieu of a bridge as may be agreed upon between the claimant and said commissioners. And in all cases where in the opinion of said commissioners, a bridge over the canal ought not to be rebuilt, and the sum to be paid for commutation shall not be agreed upon as aforesaid, the said bridge shall not be built, but the damages sustained by such owner or owners by being deprived of such bridge, and which the state, under all the circumstances, ought of right to pay, shall be appraised by the canal appraisers and paid by said commissioners.

Set off against damages. § 5. In all cases where damages shall be claimed for being deprived of a bridge which the claimant had before constructed or maintained, the circumstance of his being equitably bound to contribute towards the construction and maintenance of an enlarged bridge, a sum equal to the expense of the maintenance of a bridge proportioned to the size of the original canal shall be taken into consideration by the appraisers, and a proper amount on that account shall be set off against any damages to which the claimant might otherwise be entitled.

Appraisement, how to be made. § 6. The proceedings in relation to the appraisement of such damages, shall be in all respects the same as the proceedings in

relation to the appraisal of damages for lands, streams or waters appropriated by the canal commissioners to the use of the public; and appeals from such appraisement may be made in the same manner.

L. 1840, Chap. 372—An act in relation to the bridges over the state canals.

Certain section extended. SECTION 1. The provisions of the fourth section of the "Act in relation to bridges over the enlarged Erie canal," passed April 20, 1839, shall be applicable to the several canals of this state.

[Undoubtedly, sec. 1 of the act of 1839 was intended.]

Private road to bridges how to be had. § 2. Whenever the canal commissioners shall deem that the state may be reasonably required to erect a farm bridge over any of the canals of this state, for the accommodation of the owner or owners of adjacent lands, and they cannot commute for said bridge with such owner and claimant on satisfactory terms, in case the said commissioners determine that a private road through adjacent lands will sufficiently accommodate such owner or claimant, they are hereby authorized to apply to the commissioners of highways of the town in which such lands lie, to lay out a private road for the accommodation of such owner and claimant, under the provisions of article four, chapter sixteen, title first, part first of the Revised Statutes; and such damage as may be assessed to the owner of the lands through which said road is laid out, shall be paid by the commissioners, when the same can be done with a due regard to economy to the state.

L. 1849, Chap. 363—An act for the purchase of materials and tools for the ordinary repairs of the canals.

Materials and tools how purchased. SECTION 1. The canal commissioners are hereby authorized to direct the superintendents of canal repairs to purchase materials and tools for the ordinary repairs of the canals, without advertising for the same, whenever in their opinion the interests of the state will be promoted thereby; and shall not be bound to accept proposals unless they deem it for the interests of the state.

L. 1850, Chap. 278—An act to secure the payment of wages to laborers, employed on the canals and other public works of this state.

Contractors required to give bonds to pay their laborers. SECTION 1. It shall be the duty of any canal commissioner or other officer having charge of the letting of any contract for work on any of the canals or other public works of this state, to require and take, in addition to the bond now required by law for the security of the state, a bond with good and sufficient sureties not less than two, conditioned that such contractor shall well and truly pay in full, at least once in each month, all laborers employed by him on the work specified in such contract, which bond shall be duly acknowledged before any officer authorized to take acknowledgment of deeds, and filed by the officer taking the same, in the office of the clerk of the county, wherein such work or contract is to be performed. And when such work shall be partly in two or more counties, there shall be such a bond filed in the clerk's office of each county.

24 Barb., 541.

Bonds when prosecuted. § 2. Suits may be commenced on said bond before a justice of the peace, when the amount claimed shall not exceed the jurisdiction of a justice of the peace, and a transcript of such bond, duly authenticated by the county clerk, may be used in evidence in such suit.

Suits how brought. § 3. The bringing of a suit by one or more laborers, upon such bond, shall not operate as a bar to the bringing of other suits thereon, by any of the parties for whose benefit such bond was taken, and to whom such contractor shall be indebted for labor. But no recourse shall be had to the sureties upon such bond, unless proceedings shall be commenced within thirty days after the completion of the labor, the payment of which is secured by such bond. But nothing in this act contained shall prevent or bar a suit against such contractor within the time limited by law.

L. 1862, Chap. 354—An act for the protection of bridges belonging to the state, or under its control.

No driving over bridges of the state faster than a walk. SECTION 1. It shall not be lawful for any person to lead, ride or drive any horse or horses, mule or mules, faster than on a walk over any bridge belonging to or under the control of this state, which is now or may hereafter be erected over any canal, canal feeder, stream or river thereof.

Cattle. § 2. No person shall hereafter drive any cattle across any bridge or bridges referred to in the first section of this act, at a faster rate than upon a walk, and shall not, in so driving them over, permit more than twenty-five cattle to be upon any such bridge at one time.

Penalty. § 3. Any person violating either of the provisions of this act shall be liable to a penalty, for each offence, fifteen dollars, to be sued for and recovered in any court having cognizance thereof, by the contractor, in the name of the people of this state, whenever such bridge or bridges, where the offence shall be committed, shall be embraced within his repair contract, and in all other cases by the superintendent of canal repairs. Such penalty when recovered shall be credited to the state in the first settlement thereafter of the accounts of such contractor or superintendent with the state.

L. 1865, Chap. 727—An act for the protection of canal and other lands belonging to the state of New York.

Removal of encroachments. SECTION 1. The canal commissioners are hereby authorized and required to remove or cause to be removed from the land taken by the state for canal purposes, except those parts thereof that lie in the thickly built parts of cities, all encroachments thereon, whether in the shape of buildings, fences or other structures, except dry-docks authorized by the canal commissioners, or manufactories, mills or warehouses doing business upon the canal, that said lands may be kept in the possession of the state for the purposes of canal navigation. [*Thus amended by L. 1866, ch. 657.*]

21 Hun, 74.

L. 1881, Chap. 488—An act in relation to canal bridges.

Town, village, etc., may build bridge. SECTION 1. Any town, village or city on the line of any navigable canals of the state may, with the approval, consent, and under the direction of the superintendent of public works, erect, build and maintain within its own limits a bridge or bridges across said canal, of such kind, dimensions and material, and with such approaches, as may be deemed best, at the proper cost and expense of such town, village or city, at any point where there is not now a bridge built and maintained by the state.

Appointment of tenders, etc. § 2. In case any such bridge, by reason of being a hoist, lift or swing bridge, shall require the constant attendance of bridge tenders

to manage and work such bridge, the superintendent of public works shall alone have the power of the appointment and removal of such and so many of such bridge tenders as he may think proper, but the expenses or wages of such bridge tenders shall be paid to such superintendent of public works by any such town, village or city, when, and as often as he may require, to be by him paid to such bridge tenders, and all the cost of material, power or tools necessary for the tending of such bridge shall be paid for by such town, village or city, on the demand therefor of such superintendent of public works.

Adoption of ordinance. § 3. The common council of any city may, and is hereby authorized and empowered to enact and adopt an ordinance for the erection and construction of a lift, hoist or swing bridge over any canal at any street in any such city where, in the opinion of such common council, such bridge may be deemed necessary, and such common council is hereby empowered to levy and assess upon the property benefited the cost of constructing any such bridge, provided, however, that in any such case such city or common council shall first obtain the consent and approval of the superintendent of public works to such proposed bridge, and such bridge shall be built, operated and maintained and be under the supervision and control of the superintendent of public works, and be built, maintained and operated at the expense of any such city, or of the property adjudged by the common council benefited thereby.

L. 1881, Chap. 536 — An act in relation to iron bridges over the New York state canals.

Specifications; advertisement for proposals. SECTION 1. When the construction of the superstructure of an iron bridge over any of the canals of this state shall be ordered by the legislature or canal board, or shall be required by the superintendent of public works, the state engineer and surveyor shall prepare general specifications, and the superintendent of public works shall advertise for plans, detailed specifications and proposals for the work.

Approval of plans, etc. § 2. Before the contract shall be awarded, the plans and detailed specifications accompanying the proposals shall be submitted to the state engineer for his approval. He shall submit the plan approved to the canal board, together with a copy of the proposals received. Upon obtaining the certificate of adoption by the canal board, he shall file the plan so approved in his office, and a copy thereof in the office of the superintendent of public works, who shall then let the work.

[Section 3 repeals inconsistent acts.]

ARTICLE NINTH.

ART. 9.

MISCELLANEOUS PROVISIONS, OF A GENERAL NATURE.

- SEC. 183. Agents, toll-collectors, etc., discharged from employment, to deliver up any house, etc., occupied by them, etc.
184. In case of refusal to make such delivery, justice of peace to issue warrant to constable, directing him to take possession.
185. Who ineligible to office of superintendent, lock-keeper, etc.
186. Canal commissioners and members of canal board not to be interested in boats, etc.
187. Collectors, etc., exempt from military duty, and serving on juries.
188. Suits for penalties, etc., under this title, to be in name of people.
189. If penalty not over fifty dollars, justice has jurisdiction.
190. Meaning of the terms "float" and "master," under this title.
191. Execution against property or person, of any one against whom judgment for penalty may be recovered.
192. Persons violating provisions of this title, liable for damages and for penalty.
193. Comptroller to prepare forms of clearances, etc., and send them to officers on canals.
194. How much water to be taken into a level.
195. How waste-weirs and gates to be constructed.

§ 183. It shall be the duty of every agent, toll collector, lock-keeper or superintendent, employed on any canal, and occupying any house, office, building, or land, belonging thereto, who shall be discharged from his employment; and of the wife and family, of every such person, who shall die in such employment; to deliver up the possession of the premises so occupied, and of all books, papers, matters or things belonging to the canals, acquired by virtue of his office within seven days, after a notice shall have been served for that purpose, by the acting canal commissioner.

ART. 9.
Agents to deliver up property, &c.

[L. 1820, 187, § 12.]

§ 184. In case of a refusal or neglect to make such delivery, in either of the above cases, it shall be the duty of any justice of the peace, in the county where such premises shall be situate, upon application, to issue his warrant under his hand and seal, ordering any constable or other peace officer, with such assistance as may be necessary, to enter upon the premises so occupied, in the day-time, and remove therefrom all persons found in possession thereof, and to take into his custody all books, papers, matters and things there found, belonging to the canals, and to deliver the same to the acting canal commissioner, or his authorised agent; and the officer to whom such warrant shall be delivered, shall execute the same according to its purport.

Proceedings to compel delivery.

[250]

[L. 1820, 187, § 12.]

§ 185. No person owning any hydraulic works dependent upon the canals for their supply of water, or who shall be employed in or connected with any such works, or who shall be engaged in transporting property upon the canals, or who shall own, or be interested in, any boat, navigating the same, shall be employed as a superintendent, lock-keeper, collector of tolls, weigh-master, or other agent upon the canals.

Who ineligible as collector, &c., 38 Hun, 632; 46 Hun, 12.

[L. 1826, 363, § 30.]

§ 186. No canal commissioner or other member of the canal board, or superintendent, engineer, or person holding any appointment under the canal commissioners, or any one of them, or under any superintendent of repairs, or other officer on the canals, shall hereafter become interested in any hydraulic work dependent on the canals for a supply of water, or become interested in any line of boats regularly navigating the canals, or shall, either directly or indirectly, become interested in any contract on the canals as a contractor, surety or otherwise, either in his own name or in the name of any other person, or shall, either directly or indirectly, derive any benefit from the ordinary or extraordinary expenditures on the canals beyond his established compensation; and if any canal commissioner, member of the canal board, superintendent, engineer or person holding any appointment under the canal commissioners or any one of them, or under any superintendent of repairs or other officer, on the canals, shall, at any time hereafter, become interested or derive any benefit as aforesaid, he shall forfeit his office or appointment. [*Thus amended by L. 1843, ch. 181.*]

Officers not to be interested in boats or contracts, 38 Hun, 632.

§ 187. Every collector of tolls, the clerks of each collector, not exceeding two, having the collector's certificate that they are actually

Collectors, &c., exempt from

TITLE 9. employed by him, and all superintendents of repairs, lock-tenders, inspectors of boats and weigh-masters, shall be exempted from the performance of military duty, and jury service, while actually engaged in their respective employments on the canals, while the same are navigable.

certain duties.

[L. 1827, 227, § 27.]

Penalties how recovered.

§ 188. All suits for penalties and forfeitures imposed in any article of this title, or for damages, in behalf of the state, shall be prosecuted in the name of the people of this state, by such persons and in such manner as the commissioners of the canal fund, in their regulations, shall direct; and all moneys recovered therein, shall be accounted for and paid over to such commissioners.

[L. 1827, 227, § 28. See L. 1835, ch. 21, *ante.*]

Before whom.

§ 189. Every such penalty or forfeiture, not exceeding the sum of fifty dollars, may be recovered before any justice of the peace in any county.

[L. 1827, 227, § 28.]

Definition of "float" and "master."

§ 190. The term "float," as used in this title, shall be construed to embrace every boat, vessel, raft, or floating thing, navigated on the canals, or moved thereon, under the direction of some person having the charge thereof; and the term "master," as so used, shall be construed to apply to every person, having for the time, the charge, control or direction, of any such float.

[251] Executions for penalties.

§ 191. If any person against whom any forfeiture shall be recovered under the provisions of this title, shall not immediately pay the full amount of the judgment so obtained, the court by which such judgment shall be given, shall, without delay, issue an execution against his property or person, at the election of the party prosecuting the suit.

Penalty no bar to damages.

§ 192. The imposition or recovery of any penalty or forfeiture, imposed for the violation of any provision of this title, shall not be considered a bar to the recovery of any damages, resulting from such violation, to the state or to individuals.

Forms.

§ 193. The comptroller shall prepare the forms of all clearances, bills of lading, statements, and other papers necessary to be used under the provisions of this title, and shall from time to time, transmit the same to the different officers and agents on the canal, for whose use they may be required.

How much water to be taken.

§ 194. No more water shall be taken into any level of either of the canals, than shall be sufficient to supply such level during the days of the greatest business, and also to supply any other level of the canal, or other public work of the state, dependent upon such level for a supply of water.

Waste weirs.

§ 195. Every waste-weir upon the same level as either of the canals, shall be constructed, as nearly as may be consistent with the safety and convenience of the canals, of the same height, but in all cases so, as to leave a depth of at least four feet water in the level: and there also shall be constructed one waste-gate, as nearly opposite to the mouth of every feeder taken into the canal, as the convenient discharge of the water will permit.

L. 1837, Chap. 451—An act in relation to the canals.

Drafts for payment of engineers. SECTION 1. Either of the acting canal commissioners may draw upon the commissioners of the canal fund for any sum to be advanced to an engineer to meet the expenses of the engineer department; and if the bond of said engineer shall have been duly filed in the office of the comptroller, and a receipt of the engineer for such draft shall also be filed in the same office, it shall be the duty of the commissioners of the canal fund to pay the draft; provided the advances to an engineer unaccounted for, shall at no time exceed the sum of five thousand dollars.

11 N. Y., 310; 11 Barb., 869.

Engineer to execute bond. § 2. Before any advance shall be made to an engineer, he shall execute and file in the office of the comptroller, a bond to the people of this state, for the faithful expenditure of the moneys which shall be entrusted to him, in such penalty and form as the canal board shall direct, and with such sureties as the comptroller shall approve: upon which said bond the said engineer and his sureties shall be responsible to the state for moneys advanced to him as aforesaid.

To account once in 90 days. § 3. Such engineer shall, as often as once in ninety days, render his account to the comptroller, who shall audit the same; and if he shall omit to render his account, or his accounts as rendered be not satisfactory, the comptroller shall notify the canal commissioners and the commissioners of the canal fund thereof; and no further advances of money shall be made to such engineer.

Accounts to be certified to by a canal commissioner. § 4. Before any engineer's account for expenditures shall be presented to the comptroller, the canal commissioner having charge of that part of the canal on which such engineer is employed, shall certify on such account that he has examined the same; that the several disbursements specified therein were made under his direction on the canal, or for payments necessary to be made thereon; and that he believes such disbursements to be proper and reasonable, and to have been made as charged.

Canal board may modify penalties. § 5. The canal board shall have power to modify or reduce any of the penalties imposed by article seven of chapter nine, title nine of the first part of the Revised Statutes.

Maps of canals evidence of title to lands. § 6. The original maps of the canals of this state, which purport to have been made and completed under and in virtue of the first article of title nine, chapter nine of the first part of the Revised Statutes, which said maps are now filed in the office of the comptroller; and such maps of said canals as hereafter shall be made, completed, approved, signed, certified and filed under and in virtue of the act referred to, are hereby declared to be presumptive evidence that the lands indicated on said maps as belonging to the state, have been taken and appropriated by the state as and for the canals; and a transcript from any such maps, certified as required by the act referred to, shall be of equal effect with the original.

81 N. Y., 21; 16 Abb. N. C., 179, *note*.

Superintendent to make estimate. § 7. Before any advance of money shall be made to a superintendent of canal repairs by the commissioners of the canal fund, he shall make out a detailed statement, in such form as the said commissioners shall prescribe, of the several anticipated objects of expenditure on the line of canal under his charge.

To be certified and filed. § 8. If the said estimate shall be filed in the office of the comptroller, with the certificate thereon of the acting canal commissioner, stating that in his opinion, the whole amount or if less than the whole amount, what portion of the said estimate should be advanced, the commissioners of the canal fund may make advances on the same, in such sums, and as often as they may deem necessary: provided such advances shall not exceed the amount certified by the commissioner.

L. 1843, Chap. 181—An act to prohibit members of the canal board and officers on the canals from becoming interested in any contracts or hydraulic works, and for other purposes.

[Section 1 amends § 186, *ante*, p. 777.]

Charges to be investigated by canal commissioners. § 2. Whenever charges shall be preferred under the above section, against any engineer or other officer or person holding their appointment from the canal commissioners or any one of them, or from a superintendent of repairs or other officer on the canals, it shall be the duty of the board of canal commissioners to investigate the same; and whenever charges are preferred against any officer holding his appointment from the canal board, it shall be the duty of the canal board to investigate said charges; and it shall be the duty of said boards, respectively, to dismiss said officers or persons if the charges are sustained; and all contracts made in violation of this act. are hereby declared to be void.

L. 1847, Chap. 278—An act in relation to the public works and the officers connected therewith.

Commission and oath of engineers. SECTION 1. Every engineer employed by virtue of the 15th section, article second, title nine of chapter nine of the first part of the Revised Statutes, shall be furnished with a copy of the resolution of his appointment by the canal commissioners, certified by the secretary of the board; and before entering on the duties of his office such engineer shall take the constitutional oath and file the same in the office of the secretary of state.

Money to contractors. § 2. No money shall hereafter be advanced or paid to any canal contractor on his contract, except on the sworn certificate of an engineer, in such form as the canal board shall prescribe, that he has actually measured the work or material included in the certificate, and believes that the quantities therein stated do not exceed the amounts actually performed or delivered by the contractor, which certificate shall be sworn to before either of the canal commissioners or any judge or justice of the peace.

Measurement to accompany receipt. § 3. The sworn measurement referred to in the preceding section shall be given to the canal commissioner, and shall accompany the receipt of the contractor when presented at the canal department for final audit.

Engineers to record measurements. § 4. Every engineer on whose certificate payments are made for any public work shall enter in a book to be kept for that purpose every measurement made by himself or his assistant, with such explanation in regard to the location and character of the material, if the same has not been placed in the public work as will enable his successor to identify and secure the material for the use of the state, and on leaving the public service, such book of measurements shall be deposited with the secretary of the board of canal commissioners.

Boats, implements and materials, how to be furnished for repairs. § 5. Each canal superintendent under such regulations as shall be prescribed by the canal board, shall procure all boats, wheelbarrows, tools and implements, lumber, stone and other materials required for the ordinary repairs of the canals by giving notice for two weeks in two papers designated to publish the laws in each county through which his section of the canal passes, of the day and hour when sealed propositions will be received for the supply of the articles required. In addition to the requirements of sections thirty-four and thirty-five, article two, title nine of chapter nine of the first part of the Revised Statutes, the canal board shall prescribe such rules in regard to the notice to be given, and the time and manner of receiving and opening proposals as will effectually secure the rights of the bidders and the interests of the state, and in rebuilding locks, bridges and other structures on the finished canals the canal commissioners shall contract for the same on sealed propositions except during the season of navigation.

Proposals, how to be made. § 6. Every person proposing to become a contractor for furnishing materials or tools under this act shall accompany his proposals by an engagement, substantially in such form as said canal board shall prescribe, signed by some responsible person or persons guaranteeing that said person or persons making such proposal shall within ten days after the acceptance of his or their proposals by said commissioners, enter into a contract in writing with said commissioners and their successors in office for the faithful performance of such proposals; and if any person or persons to whom any contract may be awarded shall neglect or refuse to enter into such contract within such time as is herein prescribed for that purpose, it shall be the duty of said commissioners to receive further proposals for furnishing such materials and tools as remain uncontracted for by reason of such neglect, and to prosecute the person or persons so neglecting to enter into contract according to their proposals and their sureties for such damages as the state may have sustained by reason of such neglect or refusal.

Contractors to give security. § 7. Every contractor shall give satisfactory security to the canal commissioners for the faithful performance of his contract, and if any person or persons having entered into any such contract shall fail, neglect or refuse to perform his contract or the requisitions of the canal commissioners or superintendent having the oversight and charge thereof, made in conformity with such contract, such contract may by said canal commissioners be declared abandoned, and such person or persons shall be thereafter excluded from any interest in any future contract in relation to the same and all similar objects.

Penalty for neglect or refusal to perform contract. § 8. If any contractor for the furnishing of any tools or materials upon any section or sections of any of said canals shall fail, neglect or refuse to perform his contract relative thereto, or to comply with any requisition made in accordance therewith of any acting canal commissioner or superintendent in charge of any such section or sections, it shall be the duty of such commissioner or superintendent under his order to procure all such tools and materials as may be necessary for immediate use and until such contract shall be re-let, and such contractor and his sureties shall be liable for all damages which may result from such neglect or refusal, together with all necessary extra cost of materials and tools over and above the contract price, rendered necessary to be purchased or procured by any commissioner or superintendent by reason of such neglect or refusal.

In case of breaches, etc., deficiencies to be supplied. § 9. In the event of any breach or other extraordinary event rendering necessary an increased quantity or amount of materials or tools upon any section of said canals, the supply of which cannot consistently with the safety and requisite good reparation or condition of said canals to be obtained under and by virtue of the contracts herein required to be made in season for the exigencies of the occasion, any canal commissioner or superintendent in charge of any portion of said canals where such necessity may exist, is hereby authorized and required to supply any deficiency that may be found to exist upon the best practicable terms for the interest of the state, rendering to the canal board as soon as consistent thereafter, a just and true detailed statement of the materials or tools purchased and of the circumstances rendering such purchase necessary, which statement or a copy thereof shall be communicated to the legislature at its next session. But nothing herein contained shall be so construed as to permit the purchase of any materials or tools for the supply of which contracts are in existence in any other manner than by contract, whenever the same can be procured by contract without delay to the navigation of the canals or injury to the interests of the state.

Materials and tools furnished to be examined. § 10. All materials and tools purchased by and delivered or offered for delivery in pursuance of any contract made under the provisions of this act shall be carefully and thoroughly examined and inspected by an acting canal commissioner or superintendent in charge of the section where the same may be delivered for such use, and such examination and in-

spection is hereby required to be made by the commissioner in person as far as shall be consistent with the discharge of his other necessary official duties; and the officer making such examination and inspection shall immediately thereafter make a report to the canal board of such examination and inspection, in which he shall state the quantity, quality and amount or number of the materials or tools examined and received or rejected as being or not being in conformity with the contract under which they may be offered for acceptance, and when any portion of such materials or tools shall be rejected as not in conformity with the contract the reasons for such rejection shall be stated and set forth in such report, which shall contain an account of the time when and place where such examination was made, and the section or sections for which such materials or tools were designed for use so far as the same are accepted, specifying the quantity, number and amount by items, of all materials and tools for each and every of said sections for repairs, and which said report shall be made under the oath or affirmation, before some proper officer authorized to administer oaths, of the person or persons making the same.

Provision in contracts. § 11. All contracts made in pursuance of this act shall contain a provision for the speedy and equitable adjustment of all questions that may arise relative to the performance or otherwise of any of said contracts.

7 Barb., 211.

Money, when and how to be paid for repairs, etc. § 12. The commissioners of the canal fund are hereby authorized and required to pay from the moneys in their hands, which may at the time be appropriated for the repairs of the canals of the state, all such sums of money as shall from time to time become due to contractors by reason of the performance of any contract entered into in pursuance of this act, but no such payment shall be made for any materials or tools except such as shall have been accepted as being in conformity with the contract under which they were delivered, and of which acceptance the report required by the tenth section of this act shall have been duly filed with the canal board or in the office of the clerk of the canal department, and when such report shall have been made by a superintendent of repairs and not by the commissioner having charge of that portion of the canals where such materials or tools were delivered and accepted, it shall be the duty of the commissioner so in charge, and he is hereby required to state that such materials and tools were in his judgment necessary for use upon the section where delivered, or would become necessary within a period in such statement to be specified, that the purchase thereof is in his belief in pursuance of some contract, specifying with whom and the reasons why such examination was not made by himself in person, which statement shall be verified by the oath or affirmation of the commissioner making the same, annexed to such report and filed therewith.

To be separated from repairs. § 13. All work connected with the enlargement and improvement of the Erie canal, done under contracts made by the canal commissioners, shall be kept distinct as far as practicable from the ordinary repairs of the canal by superintendents. The regulations of the canal board, made in compliance with the provisions of the preceding sections of this act, shall apply to all proceedings of the canal commissioners and engineers in giving notice and receiving propositions in relation to any of the public works.

Commissioners to visit line of canal. § 14. It shall be the duty of each acting canal commissioner at least once in thirty days during the season of canal navigation, to visit and examine every part of the line of canal assigned to his special charge, and as often as three times in each season to give public notice of such visitation, and that he will attend to such complaints as may be made under the fifth subdivision, section twenty-nine, article two, title nine of chapter nine of the first part of the Revised Statutes, and for the service required in this section, the commissioner shall be allowed six cents for each mile travelled on the line of his division of the canals; but the aggregate mileage in one year to any commissioner shall not exceed the sum of two hundred dollars. And if from

sickness, or any other cause, the acting commissioner on any division cannot or does not attend to his duty, the service shall be performed by the state engineer and surveyor or the chief engineer at the same rate of compensation.

Oaths. § 15. Weighmasters on the state canals and inspectors of canal boats are hereby authorized to administer oaths when it becomes necessary in the discharge of their duties.

L. 1862, Chap. 415 — An act to adapt the canals of this state to the defence of the northern and northwestern lakes.

When locks to be enlarged, and new ones built; when canal to be built to Great Sodus Bay. SECTION 1. Whenever the government of the United States shall provide the means, either in cash or their six per cent stock or bonds, redeemable within twenty years, for defraying the cost of enlarging a single tier of locks, or building an addition tier in whole or in part upon the Erie and the Oswego canals, including any necessary alteration of said canals, or their structures, to a size sufficient to pass vessels adequate to the defence of northern and northwestern lakes, the canal board shall, without delay, put such work under contract, in the manner now required by law, to be constructed and completed at the earliest practical period, without serious interruption to navigation, with power in the discretion of the canal board, to direct the construction of new and independent locks, when found more advantageous. The said canal board shall, whenever the government of the United States shall provide the means as aforesaid, construct a canal of the requisite dimensions and capacity, from the Erie canal, at or near the village of Clyde, to some proper point on the Great Sodus Bay or Lake Ontario.

Champlain canal. § 2. The canal board are also hereby authorized, in like manner to enlarge the Champlain canal, and its locks and other structures, to a size sufficient to pass vessels of like capacity, in case the government of United States shall, in like manner, provide the means required for that purpose.

Authority of canal board. § 3. The dimensions and character of all the work herein above mentioned, shall be determined by the canal board, subject to the examination and concurrence of the war department of the government of the United States. Contracts for any of said work may be made payable in the said six per cent stock and bonds of the United States, if the commissioners of the canal fund shall so elect.

Right of general government. § 4. On completing the said work on either of the said canals, the government of the United States shall have the perpetual right of passage through the canals thus enlarged or built, free from toll or charge, for its vessels of war, boats, gun-boats, transports, troops, supplies or munitions of war, subject to the general regulations prescribed by the state from time to time, for the navigation of its canals.

Appropriation of moneys. § 5. Any moneys or other means which may be received from the government of the United States, to pay for any of said work, are hereby appropriated to be expended for the purposes hereinabove mentioned.

Saving clause. § 6. But nothing in this act contained shall authorize the contracting or incurring of any debt or liability, directly or indirectly, on the part of the state, or the expenditure of any means or money of the state of New York for the purposes specified in this act.

L. 1881, Chap. 452—An act to authorize corporations owning canals to construct and operate railroads along side of or in lieu thereof.

Canal corporation may construct railroad. SECTION 1. It shall be lawful for any corporation of this state owning and operating a canal to construct and operate along or in lieu of such canal a railroad, and the exercise of the authority hereby conferred shall not be deemed to forfeit or impair its corporate rights under its charter or act of incorporation.

Corporate powers. § 2. Such company in the construction and maintenance of any such railroad under the authority of this act shall have, possess and enjoy all the powers and privileges contained in an act entitled "An act to authorize the formation of railroad corporations and to regulate the same," passed April second, eighteen hundred and fifty, and the several acts amending the same, and be subject to all the duties, liabilities and provisions so far as relates to any powers or privileges by this act upon said company conferred and hereafter exercised.

Saving clause. § 3. Nothing in this act contained shall authorize the construction of any railroad except upon or along such canal owned and operated by any such company, and not in any other locality.

L. 1886, Chap. 646—An act to facilitate state commerce by increasing the lockage capacity of the Erie and Oswego canals, and making appropriation therefor.

Superintendent of public works, to lengthen certain canal locks; how constructed. SECTION 1. The superintendent of public works is hereby authorized and directed, before the opening of canal navigation in eighteen hundred and eighty-seven, to cause to be lengthened one tier of the following specified locks on the Erie and Oswego canals, namely: Locks forty-seven, forty-eight, forty-nine, fifty-one and fifty-two on the Erie canal, and locks three, four and five on the Oswego canal. Said locks shall be so lengthened and constructed as to be two hundred and twenty feet long and not less than eighteen feet wide in the clear, and shall conform to the length and breadth of the berme experimental lock, number fifty, on said Erie canal.

Contracts for work. § 2. The furnishing of all materials and the performance of the work shall be by contract.

Contracts, how advertised and let; state engineer to prepare plans; forfeiture. § 3. All contracts shall be given to the lowest *bona fide* responsible bidder or bidders after being advertised by the superintendent of public works in at least two daily papers in each city on the line of said canals, twice in each week for three consecutive weeks preceding the letting of said contracts. The notice of letting shall be signed by the superintendent of public works and shall state the work to be done, the quantity, quality and kind of materials to be used, and the length of time which will be given for the completion of the work, the amount of security required and bonds to be furnished for the faithful performance of the contracts. Separate plans and specifications shall be prepared by the state engineer of the proposed improvement of each of said locks; and the contract for the proposed improvement of each of said locks shall be advertised for and let separately to the lowest bidder. The superintendent of public works may at any time after receiving bids for said work, or any part thereof, and before entering into contract therefor, cancel all bids so received and readvertise for new bids, if in his judgment the public interest requires him so to do, and all contracts shall reserve the right to the said superintendent of public works to declare the same forfeited whenever in

his judgment the provisions thereof are not being performed in good faith in the interest of the state.

Appropriation; limitation. § 4. The sum of two hundred thousand dollars to be applied as follows:

Sixty thousand dollars to be applied to the improvement of the three locks on the Oswego canal, numbered three, four and five, and the sum of one hundred and forty thousand dollars to be applied to the improvement of the five locks on the Erie canal numbered forty-seven, forty-eight, forty-nine, fifty-one and fifty-two as hereinbefore set forth, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury of the state, not otherwise appropriated, to carry into effect the provisions of this act, which amount shall be paid by the treasurer upon the warrant of the comptroller and the requisition of the superintendent of public works as he may require the same in the progress of said work. But the total expense of such improvement shall not exceed the sum hereby appropriated.

Comptroller may borrow money. § 5. The comptroller is hereby authorized to borrow from time to time such sums as the superintendent of public works may require, not exceeding seventy-five thousand dollars in the aggregate, and the money borrowed shall be refunded from moneys received from taxes levied to meet the appropriation.

Repeal. § 6. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

L. 1887, Chap. 113 — An act to facilitate state commerce by increasing the lockage capacity of the Erie and Oswego canals, and to improve the Oswego, Black river, Champlain and Cayuga and Seneca canals.

Superintendent of public works to cause certain locks to be lengthened; how constructed.
SECTION 1. The superintendent of public works is hereby authorized and directed, before the opening of canal navigation in eighteen hundred and eighty-eight, to cause to be lengthened one tier of eight or more locks east of Syracuse, and one tier of seven or more locks west of Syracuse, on the Erie canal, and two locks on the Oswego canal, said locks to be selected by the superintendent of public works and state engineer and surveyor, so as to most facilitate and improve the navigation of said canals. Said locks shall be so lengthened and constructed as to be two hundred and twenty feet long, and not less than eighteen feet wide in the clear, and shall conform to the length of the berme experimental lock number fifty, on said Erie canal, and shall include such machinery and appliances as in the judgment of the superintendent of public works shall render the locks most efficient. Said superintendent of public work is also authorized to put machinery for facilitating the passage of boats, in such locks of the Oswego canal as shall be selected by him with the advice of the state engineer and surveyor; and is also authorized and directed to improve the Champlain and Oswego canals, by deepening them at such points as he shall deem most important, and to making such improvements on the Black River canal as in his judgment the interest of commerce may demand; and to make such improvements as are necessary on locks number one and two on the Cayuga and Seneca canal, and to remove obstructions and debris between Seneca lake outlet and the upper dam at Waterloo.

Contracts for work. § 2. The furnishing of all materials and the performance of the work shall be by contract.

Contracts, how advertised and let; state engineer to prepare plans, etc.; forfeiture.
§ 3. All contracts shall be given to the lowest *bona fide* responsible bidder or bid-

ders after being advertised by the superintendent of public works in at least two daily papers in each city on the line of said canals, twice in each week for three consecutive weeks preceding the letting of said contracts. The notice of letting shall be signed by the superintendent of public works, and shall state the work to be done, the quantity, quality, and kind of materials to be used, and the length of time which will be given for the completion of the work, the amount of security required and bonds to be furnished for the faithful performance of the contracts. Separate plans and specifications shall be prepared by the state engineer and surveyor of the proposed improvements, and the contract for the proposed improvements of each of said locks shall be advertised for and let separately to the lowest bidder. The superintendent of public works may at any time after receiving bids for said work, or any part thereof, and before entering into contract therefor, cancel all bids so received and readvertise for new bids, if in his judgment the public interest requires him so to do, and all contracts shall reserve the right to the said superintendent of public works to declare the same forfeited whenever in his judgment the provisions thereof are not being performed in good faith in the interest of the state.

Appropriation; limitation. § 4. The sum of five hundred and fifty thousand dollars is hereby appropriated out of any moneys in the treasury of the state, not otherwise appropriated to carry into effect the provisions of this act, which amount shall be paid by the treasurer upon the warrant of the comptroller and the requisition of the superintendent of public works as he may require the same in the progress of said work. Said moneys are to be applied as follows: Seventy-five thousand dollars to be applied to the above described improvements on the Oswego canal, or so much thereof as may be necessary, to be distributed as follows: fifty thousand dollars for the lengthening of two locks, fifteen thousand dollars for lock machinery, and ten thousand dollars for bottoming out said Oswego canal; seventy thousand dollars to be applied to the above described improvement of the Champlain canal, or so much thereof as may be necessary; fifteen thousand dollars to be applied to the improvement of the Black River canal as above set forth, or so much thereof as may be necessary; three hundred and seventy-five thousand dollars to be applied to the improvement of the locks on the Erie canal or so much thereof as may be necessary; fifteen thousand dollars to be applied to the above described improvements on the Cayuga and Seneca canal, or so much thereof as may be necessary. But the total expense of such improvement shall not exceed the sum hereby appropriated.

Comptroller may borrow money. § 5. The comptroller is hereby authorized to borrow from time to time such sums as the superintendent of public works may require, not exceeding seventy-five thousand dollars in the aggregate, and the money borrowed shall be refunded from moneys received from taxes levied to meet the appropriation.

Repeal. § 6. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

L. 1887, Chap. 463 — An act to facilitate state commerce by increasing the lockage capacity of the Erie canal.

Superintendent of public works to cause a certain lock to be lengthened; how constructed. SECTION 1. The superintendent of public works is hereby authorized and directed to cause to be lengthened one tier of lock number seventy-two, Erie canal. Said lock shall be so lengthened and constructed as to be two hundred and twenty feet long and not less than eighteen feet wide in the clear, and shall conform to the length of the berme experimental lock, number fifty, on said canal, and the fur-

nishing of all material and performance of the work herein provided for shall be by contract.

Contract, how advertised and let; state engineer to prepare plans, etc.; forfeiture. § 2. The contract for lengthening said lock shall be given to the lowest *bona fide* responsible bidder, after being advertised by the superintendent of public works in at least two daily papers in each city on the line of said canal, daily, for one week preceding the letting of said contract. The notice of letting shall be signed by the superintendent of public works and shall state the work to be done, the quantity, quality and kinds of material to be used, and the length of time which shall be given for the completion of the work, the amount of security required and bonds to be furnished for the faithful performance of the contract. Plans and specifications shall be prepared by the state engineer of the proposed improvement. The superintendent of public works may, at any time after receiving bids for said work, and before entering into contract therefor, cancel all bids so received and readvertise for new bids, if, in his judgment, the public interest requires him so to do, and the contract shall reserve the right to the said superintendent of public works to declare the same forfeited, whenever, in his judgment, the provisions thereof are not being performed in good faith in the interest of the state.

Appropriation. § 3. The sum of twenty-eight thousand dollars, or so much thereof as may be necessary, is hereby appropriated from the canal fund, payable from the unappropriated balance of taxes levied on account of said fund to carry into effect the provisions of this act, which amount shall be paid upon the warrant of the comptroller on the drafts of the superintendent of public works, as may be required in the progress of said work.

L. 1888, Chap. 416 — An act to facilitate state commerce by increasing and improving the lockage capacity of the Erie and Oswego canals, and to improve the Erie, Oswego, Black River, Champlain and Cayuga and Seneca canals, and providing for the construction of a basin at Havana and the opening of the Seneca lake level of the Chemung canal to navigation.

Superintendent of public works to cause certain locks to be lengthened, canals deepened, etc. SECTION 1. The superintendent of public works is hereby authorized and directed, before the opening of canal navigation in eighteen hundred and eighty-nine, to cause to be lengthened one tier of five or more locks east of Syracuse, and one tier of two or more locks west of Syracuse, on the Erie canal; also two or more locks on the Oswego canal. Said locks to be designated by the superintendent of public works and the state engineer and surveyor, so as to most facilitate and improve the navigation of said canals. Said locks, when lengthened, shall be so lengthened and constructed as to be two hundred and twenty feet long, and not less than eighteen feet wide in the clear, and shall conform to the berme experimental lock, number fifty, on said Erie canal, and shall include such machinery and appliances as, in the judgment of the superintendent of public works, shall render the locks most efficient. Said superintendent of public works is also authorized and directed to improve the Erie, Champlain and Oswego canals by deepening them at such points as he shall deem most important, and to make such improvements on the Black River canal and the Cayuga and Seneca canal as in his judgment the interests of commerce most require. Said superintendent of public works is also authorized and directed to bottom out the Albany basin of the Erie canal to its legal depth of seven feet of water at low tide, at such points and in such manner as in his judgment may be deemed most expedient. The deepening of said Erie and Oswego canals shall be effected by bottoming out or removing from the bottom thereof all dirt and other obstructions which have accumulated therein,

at such points as the superintendent of public works may designate, so as to restore the said Erie and Oswego canals to a standard depth of seven feet of water throughout their entire length.

Work to be done by contract. § 2. The furnishing of all materials for and the performance of the work of lock lengthening, deepening, improving and bottoming out provided for in this act, shall be done by contract, entered into and duly executed by and between the said superintendent of public works and the contractor or contractors furnishing and performing the same.

Contract, how advertised and let; state engineer to prepare plans, etc. § 3. All contracts shall be given to the lowest *bona fide* responsible bidder or bidders after being advertised by the superintendent of public works in at least two daily papers in each city on the line of said canals, and in the cities of New York and Brooklyn, twice in each week for three consecutive weeks preceding the letting of such contracts. The notices of letting shall be signed by the superintendent of public works and published as aforesaid, and shall state the work to be done, the quantity, quality and kind of materials to be used, and the length of time which will be given for the completion of the work, the amount of security required, and the conditions of the bonds to be furnished for the faithful performance of the contracts. Separate plans and specifications of the proposed improvements shall be prepared by the state engineer and surveyor, and the contract for the proposed improvements of each of the said locks shall be advertised for and let separately to the lowest bidder. The superintendent of public works may at any time after receiving bids for said work or any part thereof, and before entering into contract therefor, cancel all bids so received and re-advertise for new bids, if in his judgment the public interests require him so to do, and all contracts shall reserve the right to the said superintendent of public works to declare the same forfeited whenever in his judgment the provisions thereof are not being performed in good faith in the interests of the state.

Appropriation; how applied. § 4. The sum of five hundred and seventy thousand dollars is hereby appropriated out of any moneys in the treasury of this state, not otherwise appropriated to carry into effect the provisions of this act, which amount shall be paid by the treasurer upon the warrant of the comptroller and the requisition of the superintendent of public works, as he may require the same from time to time in the progress of said work. Said moneys so appropriated are to be applied as follows: Sixty thousand dollars to be applied to the improvements on the Oswego canal, in lengthening said two or more locks therein and in the manner aforesaid, and in bottoming out such portion of said Oswego canal, if any, as the said superintendent of public works may direct. One hundred and five thousand dollars to be applied to such of the above described improvements of the Champlain canal, as in the judgment of the said superintendent of public works, the present needs of commerce on said canal, most require. Twenty thousand dollars to be applied to the improvement of the Black River canal, as hereinbefore specified; three hundred thousand dollars to be applied to the improvement of the Erie canal or so much thereof as may be necessary, to be distributed as follows: two hundred thousand dollars, or so much thereof as may be necessary for lengthening seven or more locks, and providing necessary machinery for the same, and one hundred thousand dollars for deepening or bottoming out said Erie canal to its original standard depth as hereinbefore prescribed; such portions, if any, of the three hundred thousand dollars herein appropriated for lengthening locks on said Erie canal, which shall not be required to complete such work, the superintendent of public works is authorized to apply to the deepening or bottoming out of said Erie canal in the manner above described in addition to the sum herein specially appropriated for that purpose; twenty-five thousand dollars to be applied to the above described improvements on the Cayuga and Seneca canal, or so much thereof as may be necessary; twenty thousand dollars, or so much thereof as may be

necessary, to be applied to the construction of a basin at Havana, and for opening the Seneca lake level of the Chemung canal to navigation, and forty thousand dollars for the bottoming out of the Albany basin. But the total amount to be expended under this act, shall not exceed the sum hereby appropriated.

Money may be borrowed. § 5. The comptroller is hereby authorized to borrow, from time to time, such sums as the superintendent of public works may require, not exceeding seventy-five thousand dollars in the aggregate, and the money borrowed shall be refunded from moneys received from taxes levied to meet the appropriation.

Repeal. § 6. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

TITLE X.

TITLE 10.

Of the Salt Springs.

[This title was repealed by L. 1859, ch. 346, § 144, together with "all acts or parts of acts in addition thereto or amendatory thereof." The act of 1859 was intended as a codification of the laws on this subject, but it was not made a part of the Revised Statutes, and the peculiar language of the repealing clause of § 144 often presents embarrassing questions as which acts are to be regarded as "in addition" to this title of the Revised Statutes. It seems clear that none of the acts passed before the Revised Statutes are included in this clause, and the editor has accordingly retained so much of L. 1825, ch. 326, as was not repealed by the general repealing law accompanying the Revised Statutes. With respect to acts passed between the Revised Statutes and 1859, the editor has retained those which appear to him to be still operative. One of these, L. 1854, ch. 391, has been omitted in several compilations, but as it was amended in 1870, it seems clearly to be still in force.]

L. 1825, Chap. 326 — An act regulating the manufacturing of salt in the town of Salina.

[The General Repealing Law accompanying the R. S., L. 1828, second session, ch. 21, repealed all of this statute except the following sections.]

Salt manufacturing lots; proviso. XLIV. *And be it further enacted,* That it shall be the duty of the superintendent of the Onondaga salt springs, as soon as may be after the passing of this act, to lay out into salt manufacturing lots, of six rods in front as nearly as may be, the blocks of one hundred feet depth, bordering on the north-easterly side of the lateral canal, as laid out by the surveyor-general, from the Walton tract to the village of Salina, which have not already been so laid out; that if any individual or company having the right to any such lot, or to any other lot laid out according to the provisions of the act entitled "An act to amend the several acts in relation to the salt springs in the county of Onondaga," passed April 23d, 1823, as a salt manufacturing lot, shall have erected on such lot a suitable and convenient salt manufactory, to contain a good and sufficient building with ample store-rooms, and proper and suitable reservoirs or cisterns for holding salt water, and a block of kettles not less than fourteen in number, of the capacity of at least ninety gallons each, well set therein, it shall be the duty of the superintendent to lease such lot to him or them, on the same terms and conditions as are imposed in the leases of the salt manufacturing lots laid out under and by virtue of the last

mentioned act, and to expire at the same time with those leases : *Provided*, That not more than one manufactory of two blocks of kettles shall be erected on any one of such lots.

The like in Geddesburgh ; proviso. XLV. *And be it further enacted*, That it shall be the duty of the superintendent of the Onondaga salt springs to lay out so many salt manufacturing lots as he may think necessary, on any of the lands of the state lying on the north and south banks of the canal, in and adjoining the village of Geddes, reserved for the use of salt manufactories, five rods in front on the canal, and of sufficient depth for the accommodation of salt manufactories ; and in case the present holders of salt marsh lots at said village of Geddes, or any of them, shall, on or before the first Monday of June next, surrender or release their lots, or any of them, to the people of this state, it shall be the duty of the said superintendent to lease to the several persons making such surrender or release, two lots so laid out on the canal, for each of the marsh lots so surrendered or released, with all the privileges granted to lessees and manufacturers at the said village of Geddes by the fifteenth section of the act relating to salt springs in the county of Onondaga, passed June 15th, 1812, and to expire at the same time ; and the person making such surrender or release, shall, by lot, draw for their respective lots on the canal, under the direction of the superintendent : *And further*, That it shall and may be lawful for the said superintendent, by and with the consent of the canal commissioners, to take from the Erie canal at Geddes, water sufficient to carry a pump, for the purpose of raising salt water from the reservoir at Geddes to supply the works on the canal to be erected under this act : *Provided*, That the water hereby authorized to be taken from the canal, shall be used for no other purpose than for pumping salt water, and may at any time be taken, lessened, or stopped by the canal commissioners or by the superintendent of the Onondaga salt springs, whenever the same may in their opinion be necessary for the use of the locks, or for the pumps at Salina.

Priority of rights ; provisos. XLVII. *And be it further enacted*, That it shall be the duty of the said superintendent, inspector and engineer, at their first monthly meeting to be held pursuant to the provisions of the twelfth section of this act, or as soon thereafter as may be, to examine and determine, according to the provisions of all the laws existing prior to the passing of this act, the priority of the rights of the several salt manufactories upon the said reservation, whether they be manufactories of coarse or fine salt, to the salt water to be drawn from the wells belonging to the state, and which shall be taken possession of for the use of the state, pursuant to the provisions of this act ; and they shall make a list of all the said manufactories, distinguishing therein which are manufactories of coarse, and which manufactories of fine salt ; and shall set opposite to each of the said manufactories upon the said list, the name or names of the owner or owners of every such manufactory ; and shall number the said manufactories so placed upon such list, putting the manufactory or manufactories first entitled to said salt water first upon the list, and marking them number one ; the manufactory or manufactories second entitled to the said salt water, second upon the said list and marking them number two ; and so on, until the whole are numbered ; and all manufactories hereafter to be built upon any part of the said reservation not now actually leased or built upon, shall be placed upon said list as the same shall be put into operation, according to the dates of the leases of the lots upon which the same shall be erected, the oldest lease having priority ; and the determination of the said superintendent, inspector and engineer, when so made, shall be final and conclusive as to the right of every such manufactory to the water to be drawn from the wells, and furnished from the pump works belonging to the state ; and the said superintendent shall cause such list, so made out and signed by him and the said inspector and engineer, to be printed and made public in the same manner that the rules, ordinances and regulations of the said salt works are to be printed and published ; and the said engineer shall thereafter supply the said several

manufactories now erected, or hereafter to be erected, with salt water, according to the priority of their rights, as established by the said list, and not otherwise: *Provided*, That any person aggrieved by any decision of said officers, may within thirty days appeal therefrom to the circuit judge of the seventh district, who shall proceed to review and re-examine such decision at such time and place, and in such manner as he shall think proper, and he may reverse, confirm or modify such decision, and his determination in the premises shall be conclusive, and the expense of such appeal to be defrayed by the appellant, and before the hearing of such appeal, six days' notice in writing shall be given to the said superintendent: *And provided further*, That nothing in this section contained, shall prevent the present manufacturers of salt, in the village of Geddes, who may exchange their lots in the manner directed in the forty-fifth section of this act, from receiving their supply of water, in the same manner as though no such exchange should be made, and their manufactories respectively, shall be placed upon the said list, and numbered according to their rights as now existing: *And provided further*, That the said engineer shall not furnish, or permit to be furnished, from the pump works belonging to the state, any salt water to any manufactory not placed upon said list.

L. 1847, Chap. 340—An act in relation to the Montezuma salt springs.

Springs and lands of the state may be leased. SECTION 1. The commissioners of the land office are hereby authorized to lease to any person or persons, the Montezuma salt springs and the lands contiguous thereto, upon such terms and for such a length of time as shall, in their estimation best secure the interests of the state; but every lease executed under the provisions of this act, shall contain a clause, reserving to the state the power and right of terminating such lease, upon notice being given to the persons or some of them interested therein, of the intent so to do, by said commissioners, in such manner and for such a time as shall be determined by such commissioners, and upon terms best calculated to save the equities and rights of the persons interested in any case which may be terminated as aforesaid.

Conditions to be put in the lease. § 2. Every lease executed under this act, shall be conditioned that the lessee or lessees shall make all such erections as may be necessary to give a supply of brine for the manufacture of salt, and for carrying on and keeping the works in repair during the term of such lease, and shall further contain such other conditions and restrictions as may be deemed proper by said commissioners to secure the lessee or lessees in the peaceable use of said lands and springs, and indemnify the state against any and all expenditures and expenses in or about manufacturing salt at said springs during the running of any such lease.

L. 1848, Chap. 346—An act to dispose of certain vacant and unoccupied lands belonging to the Onondaga salt springs reservation, and for other purposes.

Appraisers to be appointed. § 2. The said commissioners* shall appoint three discreet persons, whose duty it shall be to ascertain and appraise the value of the said lots of land severally, which appraised value they shall mark in legible characters upon the respective lots as they are represented on the maps: and it shall also be their duty to ascertain and appraise the value of any erections upon either of the said lots, and mark the ascertained value of such erections upon the corresponding lot as represented on the maps, and when they shall have completed the same they shall transmit one copy to the state engineer and surveyor and the other to the superintendent of the Onondaga salt springs, and report the fact to the commissioners of the land-office.

* Of the land-office.

Railways over the salt lands. § 7. Whenever it shall be necessary for any railroad company to occupy any of the salt lands belonging to this state, for the use of their road, the same shall be appraised in the manner provided for in the second section of this act, and when they shall pay into treasury of this state, the said appraised value, they shall become possessed of the same to the same extent as by their charter they are authorised to become possessed of lands belonging to individuals.

L. 1854, Chap. 391—An act to provide for the extension of the manufacture of coarse salt by solar evaporation.

Purchase of lands; how paid for. SECTION 1. The commissioners of the land office are hereby directed to purchase, in the vicinity of the salt springs belonging to this state, in the county of Onondaga, lands suitable and convenient for the manufacture of coarse salt by solar evaporation, in such quantities and as often as in their opinion shall be for the interest of the state, except that such quantity so to be purchased by them shall not be less than the quantity of land now belonging to the people of this state, hereinafter directed to be sold, and not, in all, more than the proceeds of the land so directed to be sold will pay for, after deducting all sums to be paid to the owners of coarse salt erections situated thereon, as hereinafter provided for. Before making such purchase, the said commissioners may make such preliminary examinations respecting the value of the lands to be sold and the sums which will be required to be paid to the owners of coarse salt erections as they shall deem necessary. The lands so purchased the said commissioners shall cause to be conveyed to the people of this state free from incumbrance, and the same shall be paid for out of any moneys belonging to the general fund not otherwise appropriated. In purchasing such lands, the said commissioners shall have regard to convenience of location for the purpose of removing thereto the coarse salt works and erections situated on the lands hereinafter directed to be sold.

Commissioners of the land office may sell salt lands in Syracuse; proceeds, how applied and invested; removal of salt erections from lands; certain companies may purchase at appraised value. § 2. The said commissioners are hereby directed, after purchasing such land as aforesaid, to sell, in such quantities and as fast as in their judgment it shall be for the interest of the public, the lands in the third ward of the city of Syracuse, set apart for the manufacture of coarse salt, lying between the Erie canal on the south, and the foot of the hill on the marsh on the north, and the Onondaga creek on the east, and Geddes street on the west. Before selling such land, or any part thereof, the said commissioners shall cause the whole to be surveyed and laid out in such manner as they shall deem most suitable, and a map thereof shall be filed in the office of the state engineer, and also of the secretary of state, and a copy in the office of the clerk of the county of Onondaga; such sales shall be made in the manner and on the terms provided by law, for the sale of lands belonging to the state, after giving two months' notice of such sales, by publishing the same in the state paper, and two daily papers in Syracuse. But no such sale shall be made unless the said commissioners shall be of the opinion that the proceeds of such sale will be more than sufficient to purchase an equal quantity of land for the manufacture of coarse salt, and make the compensation herein provided to the owners of coarse salt works and erections, on the lands herein directed to be sold, for any damages which they may sustain by the removal of such works and erections, and sufficient to defray all the expenses attending the said sale and purchase. The proceeds of the said sale shall be paid into the treasury, and so much thereof as shall be necessary to reimburse any moneys paid out of the general fund under this act, with interest thereon, shall belong to said fund, and the residue of such proceeds shall be invested in the purchase of other lands convenient for the manufacture of coarse salt, as required by the Constitution of this state. The owners of erections for the manufacture of coarse salt on the said lands shall remove the same within such times as

the said commissioners shall specify and require, provided, that no such removal shall be required to be made between the first day of April and the first day of October in any year. And provided further, that the said owners shall be at liberty at any time to remove these said works and erections. Before selling the lands mentioned in this section, the said commissioners shall make or cause to be made a separate appraisal of the value of the parcels of suitable size, to be designated by them, of the lands occupied by the Syracuse Coarse Salt Company and the Onondaga Coarse Salt Company, and the said companies respectively may become the purchasers of such parcels at such appraisers' value. [*Thus amended by L. 1870, ch. 279.*]

Damages sustained to be appraised by commissioners. § 3. The damages which the owners of said coarse salt works and erections shall sustain by reason of the removal thereof shall be appraised and determined by said commissioners, who, for that purpose, shall ascertain by competent proof the number of vats having separate covers for the manufacture of coarse salt located on the lands herein directed to be sold; and on the owner or owners of said coarse salt erections producing to the comptroller proof that the vats, covers, works and other erections, or any number thereof not less than one hundred, have been removed from said lands, he shall draw his warrant on the treasurer for the payment to said owner or owners, of such sum as said commissioners shall deem a just compensation for each vat having a separate cover, and a full compensation for all damages sustained by such owner or owners by the said removal and relinquishment of the occupancy of said lands. In appraising such damages, the said commissioners shall estimate any difference between the value, for the business of manufacturing coarse salt, of the location from which said works shall be removed, and the location on other lands to be purchased under the first section of this act, to which the same shall be taken.

Salt lands to be leased; maps to be made and filed. § 4. The lands purchased pursuant to the first section of this act shall be deemed set apart for the manufacture of coarse salt, and the same may be located by persons, companies or associations, agreeably, in all respects to the laws now existing on that subject; provided, however, that no more than fifty acres shall be located by any one individual company or association. The said commissioners shall make, or cause to be made, a map or maps of lands so purchased, and shall file the same, or a copy thereof in the office of the state engineer and surveyor and another copy in the office of the superintendent of the Onondaga salt springs. The persons, companies or corporations, occupying lands by this act, directed to be sold, shall be entitled to a preference in the location of the lands so purchased, in quantity at least equal to those occupied by their erections on the lands sold, and the removal of their works shall be without prejudice to any priority of right to salt water which they now have.

Expenses how paid. § 5. The expenses of carrying this act into effect shall be audited by the comptroller and paid on his warrant by the treasurer out of the general fund; and the comptroller shall file in his office a statement of such expenses.

L. 1859, Chap. 346—An act concerning the salt springs and the manufacture of salt.

ARTICLE I.

GENERAL PROVISIONS.

Duty to be paid. SECTION 1. There shall be collected and paid upon all salt manufactured in this state a duty of one cent per bushel of fifty-six pounds, which duties shall be paid into the general fund.

Salt springs shall not be sold. § 2. The salt springs belonging to this state, including all salt water existing on the Onondaga salt springs reservation, shall not be sold or otherwise disposed of. The lands contiguous thereto, which are necessary

and convenient to the use of the salt springs and the public works thereon, are to be and remain forever the property of the state; but such lands as have been reserved or used for the purpose of the manufacture of salt may be sold by authority of law, under the direction of the commissioners of the land office, with a view to the exchange of the same for other lands more conveniently located or in larger quantity, in which the proceeds of the lands so sold shall be invested; but, by such sale and purchase, the aggregate quantity of lands appropriated to the manufacture of salt shall not be diminished.

ARTICLE II.

OF THE OFFICERS ENTRUSTED WITH THE SUPERINTENDENCE OF THE SALT SPRINGS.

Officers. § 3. The care and superintendence of the salt springs, and of the manufacture and inspection of salt, upon the salt springs reservation, in the county of Onondaga, shall continue to be vested in the "superintendent of the Onondaga salt springs," according to the provisions of this act. The said superintendent shall hold his office for three years; but the governor or chief executive officer of the state for the time being may remove the superintendent from office, for cause shown, and after a fair hearing, and appoint another person in his place to hold the office for the same time and by the same tenure as the officer removed would have held if he had not been removed.

Bonds to be executed, etc. § 4. Every person hereafter appointed to the office of superintendent of the Onondaga salt springs shall, within thirty days after he shall receive notice of his appointment, and before he shall enter upon the performance of the duties of his office, execute a bond in the sum of thirty thousand dollars to the people of this state, with not less than five sufficient sureties, to be approved by the comptroller and filed in his office, whose approbation shall be indorsed on said bond, conditioned that such person shall faithfully perform the duties of the said office, as the same are or may hereafter be prescribed by law.

Manufacturing districts. § 5. There shall be four manufacturing districts upon the Onondaga salt springs reservation, as follows: District number one, or Syracuse; district number two, or Salina; district number three, or Liverpool; and district number four, or Geddes; and the public offices for the transaction of the business connected with the manufacture of salt, shall be located as follows, to wit: For district number one, in the third ward in the city of Syracuse; district number two, in the first ward of said city; for district number three, at the village of Liverpool; and for district number four, at the village of Geddes.

Officers whom superintendent may appoint. § 6. The superintendent shall have the power to appoint the following deputies and assistants, viz.: One deputy superintendent for the first district, who shall be receiver and chief clerk, and who shall, in case of the death, removal or resignation of the superintendent, possess all the powers and discharge the duties of superintendent until another shall be appointed; one chief engineer, one chief inspector of salt, one inspector of salt for each of the first, second and fourth districts, and three block inspectors for the second district; one receiver for the second district, who, in addition to the duties now prescribed by law, shall perform all the duties heretofore performed by the inspector's clerk; one receiver for the third district, who shall have authority, if so directed by the superintendent, to perform, in addition to the duties now prescribed by law, all the duties now performed by the inspector in that district; one receiver for the fourth district, who, in addition to the duties now prescribed by law, shall perform all the duties heretofore performed by the inspector's clerk in that district; one overseer of pumps for each district; one supervisor of aqueducts and reservoirs in each district; one chief inspector of barrels, and one assistant barrel inspector for each of the first, third and fourth districts, and two assistant barrel inspectors for the second district, and with the assent of the comptroller, such assistant pumpers, inspectors, weighers and overseers in addition, as he shall deem it necessary to employ during the business part of the season. [*Thus amended by L. 1866, ch. 814.*]

Compensation of officers. § 7. There shall be allowed and paid to the several officers employed under this act the following rates of compensation : To the superintendent the sum of fifteen hundred dollars per annum, to be deducted monthly from any money in his hands drawn from the treasury pursuant to law; to the deputy superintendent, chief engineer and chief inspector of salt, each the sum of one hundred dollars per month; to the receiver for the second district, seventy dollars per month; to each of the inspectors of salt, in the first, second and fourth districts, fifty dollars per month; to each of the block inspectors in the second district, sixty dollars per month, for not more than eight months in each year; to the receiver in the third district, while he performs the duties of inspector as well as of receiver, seventy dollars per month; to the receiver in the fourth district, forty-five dollars per month; to the overseer of pumps in the first district, fifty dollars per month; to the overseer of pumps in the second, third and fourth districts, fifty dollars per month for eight months in the year; to the supervisor of aqueducts and reservoirs in the second district, fifty-five dollars per month; to the supervisor of aqueducts and reservoirs in the first, third and fourth districts, forty dollars per month; to the chief inspector of barrels, seventy dollars per month; to the several assistant barrel inspectors, fifty dollars per month, for such time as their services are necessary; to the assistant pumpers, inspectors and weighers, the sum of fifty dollars per month for not more than eight months during the year. [*Thus amended by L. 1866, ch. 814.*]

Power of superintendents, etc. § 8. The said superintendent shall have power to require of the several officers named in the preceding section, and appointed by him, the performance of such duties and services in behalf of the state as he may consider appropriate and necessary, and may remove them from office at his pleasure, and for their acts, in virtue of their offices, he shall be responsible. Every appointment made by him shall be in writing, and shall be filed in the office of the clerk of Onondaga county. Every person so appointed by him shall, before entering upon the duties of his office, take and subscribe the oath of office prescribed by the Constitution, and file the same in the office of the clerk of Onondaga county; and shall also give such bond, with sufficient sureties, to the superintendent, for the faithful performance of his duties, and for the faithful and punctual payment to the superintendent, of all moneys which he shall from time to time receive as such officer, and as often, or at such stated periods as may be required of him.

ARTICLE III.

OF THE GENERAL DUTIES, POWERS AND LIABILITIES OF THE OFFICERS CONNECTED WITH THE SALT SPRINGS.

Officers' duties and powers. § 9. The superintendent of the Onondaga salt springs shall have power, from time to time, to ordain and establish such rules and regulations, not inconsistent with law, as he may deem expedient, respecting:

1. The manufacture and inspection of salt, and the collection of the duties thereon.

2. The manner and order of receiving the salt water from the state reservoirs and aqueducts, the mode of conducting such to the respective manufactories and erections, and the securing of such water from waste and loss.

3. The examination of the several salt works and manufactories by his deputies, to determine whether the provisions of the law are properly complied with.

4. The loading of salt in bulk, or otherwise, into boats, to be transported upon the canals, or the shipment of salt by railway or otherwise, to be conveyed to market.

5. And in all other respects that shall tend to the more perfect execution of the provisions of this act.

Wells, pumps, etc. § 10. He shall, from time to time, provide such additional wells, pumps, reservoirs, aqueducts and machinery as he shall determine to be needful and proper for supplying the manufactories of salt with brine, in the largest

quantity and of the best quality, and shall keep the same, and all other works and property belonging to the state, under his charge, in complete repair; and he shall have power to employ competent workmen to make such improvements, erections, repairs and additions. But no repairs or alterations involving an aggregate expenditure of more than two thousand dollars shall be made or undertaken, without the approval of the comptroller to be endorsed upon detailed estimates; and no new structures which, upon previous estimates, shall involve an expense of five thousand dollars or more, shall be undertaken, without having also obtained the approval, in writing, of the governor and comptroller.

Penalties, etc., to be prescribed by superintendent. § 11. It shall be lawful for the said superintendent to prescribe specific penalties for the violation of the rules and regulations established by him, to the amount of from ten to one hundred dollars for each offense, and to recover the same, with costs, in a court of justice; and he may, at his discretion, withhold the usual supply of brine for the use of the manufactories, until such penalty is paid.

Rules to be printed, etc. § 12. The several penalties prescribed by law, together with the rules and regulations, shall be printed on a fair sheet, and posted up in the several offices of the superintendent, in all the fine salt manufactories and storehouses for coarse salt, and mills for grinding salt, and in such other places as shall be deemed expedient for the information of the public; and the rules and regulations of the superintendent shall be binding after one week from the time they are so ordained and published, and until they are revoked or others are established in their stead.

Report of superintendent. § 13. The superintendent shall, at the expiration of each fiscal year ending on the thirtieth day of September, or within ten days thereafter, make a report to the comptroller stating the quantity of salt inspected during the previous fiscal year, the amount of revenues accruing thereon, and from other sources, the expenditures made by the superintendent, and the amount which in his judgment will be necessary for the support of the salt springs for the ensuing year. The superintendent shall also, within fifteen days from the first day of January in each year, make a report in detail to the legislature of his doings during the year just then expired, embracing such information in regard to the manufacture of salt and the situation of the public works, and submitting such recommendations for their further improvement and extension as he shall deem necessary and proper.

Office hours. § 14. The superintendent's offices, in the several districts, shall be kept open from sunrise to sunset every day, except Sunday and the fourth day of July; and all persons may resort, during office hours, to either of said offices and examine the books of entry kept by the superintendent.

List of officers. § 15. A list of the names of all the persons holding office by the appointment of the superintendent, shall be kept conspicuously posted in each of the receivers' offices in the several districts, for the information of all persons interested in knowing who are in authority in the management of the salt springs.

Officers to prosecute, etc. § 16. It shall be the duty of each of the officers connected with the salt springs, and acting by authority, to prosecute in the name of the superintendent for all penalties imposed or prescribed by statute or by the rules and regulations, if the commission of any offense, punishable by a penalty, shall come to his knowledge, either by his own examination or observation, or by information of any other person furnishing satisfactory proof of the offense alleged. [*Thus amended by L. 1860, ch. 270.*]

Superintendent's and deputies' duties. § 17. It shall be the duty of the superintendent and of his deputies to prosecute all persons who shall knowingly commit a trespass upon any of the lands belonging to the state, or who shall wilfully do any damage to any of the machinery, erections, fixtures, or other property of the state.

Officers not to be concerned in manufacturing, etc. § 18. Neither of the officers connected with the salt springs shall be in any way concerned in the manufacturing or selling of salt, or have any interest whatever, directly or indirectly, in any salt manufactory or erection for the manufacture of salt, or in the profits of any such manufactory, or in any labor or materials, or contracts for doing any work on the salt reservations, or which may be done under the provisions of this act.

Neglect of duty. § 19. The superintendent, and the several persons holding office by his appointment, shall be liable to indictment and punishment, as for a misdemeanor, for any willful neglect of duty, or for any malpractice in the discharge of their public duties.

Superintendent to be in possession of certain property. § 20. The superintendent shall be deemed to be in possession of all the lands, wood, timber, trees, buildings, erections, pumps, and machinery of every kind, and of all water-courses, conduits, wells, aqueducts, springs, and all other property belonging to the people of this state connected with the salt works, on the salt springs reservation, in the county of Onondaga; and he shall have the charge, government and management of the same, under such provisions as shall be prescribed by law, and he shall superintend and have charge of the salt water, and shall regulate and control the delivery of the same to the manufacturers of salt.

Persons in possession of property without right. § 21. Whenever any person shall be in possession of said lands or property, or any part thereof, without proper authority or right, it shall be the duty of the superintendent to cause such person to be removed therefrom, and to take possession of the same.

Superintendent may sue, etc. § 22. The superintendent may sue in his name of office for the recovery of damages for any injury to such lands or property, according to the nature of such injury; and any under-letting, diversion or use for any other purpose than the manufacture of salt, of any of the lots that have been or may be leased by the superintendent, to any person or persons, for such manufacture, is strictly forbidden, and shall work a forfeiture of the leasehold estate; and it shall be the duty of the superintendent, in case of such forfeiture, to obtain possession of the lands so forfeited by action of ejectment.

May lease. § 23. The superintendent may lease to any person any of the lots or lands of this state reserved for the manufacture of salt, and not lawfully held or occupied for that purpose, but not for a longer period than three years.

Superintendent may receive moneys, etc. § 24. The superintendent shall receive all moneys payable to the state for all duties, rents, fines or penalties specified in this act, or in any manner arising from the salt springs or the property of the state connected with the salt manufacture.

Books to be kept. § 25. The superintendent shall keep in each of his offices regular books of entries, in which all his accounts and transactions shall be entered.

Superintendent shall deposit money, etc. § 26. The superintendent shall deposit in each week, to the credit of the treasurer of this state, in such bank or banks as may be designated by the canal board, all the moneys received by him as such superintendent, and on Monday of each week he shall transmit to the comptroller a statement showing the amount of the revenues collected and received by him, and so deposited during the preceding week.

Statement to be forwarded to comptroller. § 27. On the first Monday in each month, the superintendent shall forward a statement to the comptroller, exhibiting the whole amount of revenue collected by him during the preceding month, and the amount in each week, together with a transcript of the receiver's books in each of the manufacturing districts.

Neglect to make monthly returns. § 28. If at any time the superintendent shall neglect to make such monthly returns, or to make or transmit the certificate of such deposits to the comptroller, as herein directed, it shall be the duty of the

comptroller to order the bond of the superintendent to be put in suit, for the recovery of any moneys which may be in his hands, belonging to the state; and such neglect or omission of duty shall be deemed cause for the removal of said superintendent, by the governor, or any person administering the duties of the governor for the time being.

Books of entry. § 29. The superintendent is hereby authorized to provide suitable books of entry, blank books, blank inspection bills, returns and forms, and stationery for the use of himself and his deputies in the performance of their official duties.

Superintendent to take possession of lands. § 30. The superintendent shall have power to take possession of and occupy the lands and tenements of any person or association, or any spring or well of salt water in possession of any person or association, by virtue of any lease or grant thereof, heretofore given or hereafter to be given, under any law of this state, that may be necessary for the erection or construction of any reservoir, aqueduct, pump, pump-house, or other buildings therewith connected, or for providing and furnishing the necessary supply of salt water as directed by this act, or for procuring convenient access thereto.

Proprietor of any property to be paid for land, etc. § 31. The proprietor of any property so taken shall be paid the reasonable value thereof, to be fixed by agreement between such proprietor and the superintendent. If no such agreement shall be made, such value shall be ascertained by the appraisement of three commissioners, to be appointed by a justice of the supreme court, on the application of either party, with ten days' previous notice of the time and place of such application to the other party.

Damages. § 32. The superintendent shall pay the amount of damages so agreed upon or awarded, and the expenses of the appraisers, if any be employed, and charge the same in his account.

Water, quantity how ascertained. § 33. It shall be the duty of the superintendent to cause the quantity of water which may from time to time be required for the efficient working of the pumps, or other machinery, for raising salt water from the wells and reservoirs now constructed, or which may hereafter be constructed, in the first, second and fourth districts, to be ascertained by competent engineers, and to certify the same to the canal commissioner in charge; and it is hereby declared to be the duty of such canal commissioner in charge, on receiving such certificate, to cause the quantity of water, thus certified and required by the superintendent, to be at all times supplied to the Syracuse level of the canal, in addition to that usually required or supplied for the purposes of navigation, excepting, however, any period during which it shall be necessary to withdraw the water from said level for repairs. The certificate of the said superintendent shall be filed in the office of the said canal commissioner, and it shall be lawful for the superintendent, at all times, to draw from the canal the amount of water thus ascertained to be necessary, to be used for the purpose aforesaid, provided the navigation of the canal be not thereby impeded; and all bulkheads, gates and other appurtenances required for taking and regulating the flow of such water shall be constructed and maintained by said superintendent. Any property taken by virtue of this section shall be paid for by agreement or appraisement, in the manner provided for in the thirty-first section of this act. [*Thus amended by L. 1872, ch. 599, § 1.*]¹

Numerical list of salt blocks to be kept. § 34. It shall be the duty of the superintendent to keep on file, in each of the receiver's offices, a numerical list of the fine salt blocks in the several districts, with the name of the owner or occupant, in which list shall be designated the several manufactories which are entitled to

¹(L. 1872, ch. 599, § 2. This act shall only apply to water taken from the nine mile creek during the period of suspended navigation of the Erie canal, for the purpose of working the state pumps on the salt springs reservation.)

the first use of the water; said list shall also state the date of any additional erections, entitled to the surplus water in the order of their erection. A similar list shall also be kept of the coarse salt erections, including the number of covers or rooms, in like manner entitled to the first use of the water, and also of all subsequent erections entitled to supplies from the surplus.

Charges against the state. § 35. All charges against the state, or liabilities incurred for the support and maintenance of the Onondaga salt springs, shall be audited and paid by the superintendent, out of the moneys to be advanced to him, from time to time, by the treasurer, upon the warrant of the comptroller.

Estimate to be made out. § 36. It shall be the duty of the superintendent, before drawing any money from the treasury to be expended by him, to make out an estimate, in minute detail, of the necessary expenses to be incurred, for a period of two months, so far as they can be reasonably foreseen, commencing with the month of January, and to forward the same to the comptroller, who shall thereupon authorize the superintendent to make his draft upon the treasurer, for the amount of such estimate, or for such portion thereof as he shall think necessary and proper. And to meet any extraordinary expenditure, the superintendent may in like manner, make special estimates, which the comptroller shall advance in like manner, if the same be approved by him. But in no case shall the superintendent be authorized to receive from the treasury a larger sum than the amount of the appropriations made by the legislature for the support of the salt springs.

Abstract of vouchers; oath. § 37. At the expiration of each period of two months, as aforesaid, the superintendent shall make a full and perfect abstract of the vouchers in his possession, to which the following affidavit is to be attached, which may be sworn to before any person authorized to administer oaths, to wit: "I (A. B.), superintendent of the Onondaga salt springs, do solemnly swear that I have deposited in the bank designated by the canal board all the moneys received by me for duties on salt, rents, fines or penalties, or for other property of the state; and I do further swear that the foregoing is a true abstract of all the vouchers taken by me as superintendent for the two months ending on the _____ day of _____, 18—; and that the money specified in the receipts, of which the above is an abstract, has been actually paid as specified in said receipts; and further, that all the receipts were filled up as they now appear, and were read, or the amount distinctly stated to the signer of each, according to my best knowledge and belief." The report and vouchers shall be returned to the comptroller, and if satisfactory to him, he will enter his approval on the abstract, and shall audit and allow the accounts of the superintendent. The superintendent shall also make out a report, showing the expenditures for the preceding two months, corresponding in its detail of items to the estimate presented before an advance is authorized to be made by the comptroller; if any of said vouchers are objectionable, the comptroller will enter his dissent on the particular voucher, and not audit and allow the same until satisfied of its legality and propriety.

Lines of aqueducts to be kept in repair. § 38. The superintendent is authorized to lay and keep in repair the principal lines of aqueducts necessary for supplying the manufacturers of salt with water, and for the equal and proper distribution of the same; and for that purpose he may cross any public highway, and may lay such aqueducts along such highway, avoiding the traveled part thereof and causing no unnecessary obstructions thereto; but it shall be his duty in all cases, in laying such aqueducts, to provide that no damage shall be done to any street or highway so crossed or occupied, nor shall the convenient or unobstructed use of such street or highway be impaired thereby; and the said superintendent may enter upon the lands of any individual or company, or upon any leased land, and may carry the salt water across the same, by suitable and proper aqueducts or conduits, paying to the owner of any such lands, or the lessee thereof, the damages which he may sustain thereby, to be ascertained by mutual agreement, or by the appraisement of three commissioners, to be appointed as provided in section thirty-one of this act; but no damages shall be paid to any person or

association for such occupancy of their lands, when the same are occupied or used for the manufacture of salt, and are entitled to receive the salt water furnished by the state.

Rules and regulations. § 39. The superintendent shall annually, in the month of April, adopt rules and regulations for the ensuing year, in accordance with the provisions of this act, for the guidance and direction of the salt manufacturers, which shall be made public in the manner directed in the twelfth section, article three, of this act.

Vacant lands. § 40. The superintendent may lay out any vacant lands belonging to the people of this state, within the salt manufacturing districts, not required for other purposes, and being suitable for the manufacture of salt, into lots of the ordinary size, for the erection of fine salt blocks, and lease the same to any person applying therefor, after he shall have erected a manufactory of salt thereon. But no person shall be authorized to enter upon state lands for the purpose of securing the same for the erection of such manufactory, without first obtaining the permission of the superintendent, in writing, nor until the same has been duly surveyed and mapped. The superintendent may likewise lease to any person any vacant or unoccupied lot or part of a lot, which he may consider necessary or proper to attach to any existing lot, to be used by such lessee as a part of his manufacturing premises; but no grounds in the immediate vicinity of any of the pump-houses or other public works, vacant or unoccupied at the time of the passage of this act, shall be hereafter laid out or occupied for manufacturing purposes, but the same shall be preserved for the use and convenience of the state.

Brine, distribution of. § 41. In the furnishing and distribution of brine, hereafter, to the fine and coarse salt erections, from the Onondaga salt springs or wells, no distinction shall be made between the works situated on state lands and those built on private lands, but each and all of the erections which were in existence on the fifteenth day of April, eighteen hundred and fifty-eight, shall be considered equally entitled to a supply of water from the said springs, of as near the same quality as may be; but in case there shall be an insufficiency of brine to supply all the said erections, then the superintendent shall classify the same in such a manner as to furnish a full supply of water to each of said erections, an equal portion of the time that there shall be a deficiency in the supply. And the superintendent shall, during the months of July and August, classify favorably to the erections for the manufacture of solar salt, but such classification shall not give the said erections a supply for more than an equal portion of the time, as above mentioned; and in case the said springs shall produce a greater supply of water than will be needed for fully supplying the present erections during the entire manufacturing season, such surplus may be furnished to any erections on leased or private lands, in the first, second and fourth districts, that have been erected since the fifteenth day of April, eighteen hundred and fifty-eight, or that may be hereafter erected in said districts, to be furnished to them in the order of their erection, the superintendent keeping a record of such erections in his office, for the purpose of determining their priority, and giving a certificate thereof to the manufacturer or owner of any such blocks or works, if required. The setting apart by the commissioners of the land office of lands for coarse salt works, and the commencement of erections thereon, previous to the fifteenth day of April, eighteen hundred and fifty-seven, shall be deemed an erection, within the provisions of this section, and shall entitle all erections made at any time on the said lands by the person or company making such first erections, or their assigns and successors, to the supply of brine in this section provided for. The commencement of erections for the manufacture of coarse salt on private lands, and the actual covering of at least one acre thereof, or the actual expenditure in the purchase of materials or other expenditures in and about such lands, for the like purpose, sufficient to cover one acre, previous to the first day of January, eighteen hundred and fifty-seven, shall be deemed an erection, within

the provisions of this act, then in existence upon such lands, to the extent of twenty acres, or so much thereof as shall be covered with such erections by the first day of January, 1862. But the superintendent shall not be required to furnish water for erections on private lands unless a description of such lands shall be filed in the office of the superintendent, and the location shall be approved by him. [*Thus amended by L. 1860, ch. 270.*]

Salt works to be erected. § 42. Any individual or company having erected, or who may erect coarse salt works, on their own lands or lands belonging to the people of this state, in the vicinity of the "North Side Cut" canal, in the first ward of the city of Syracuse, but which lands are not bounded by said "side cut" on either side, may have the right to take any of the lands belonging to the people of this state not otherwise occupied, on the east side of said canal, equal in size to one fine salt lot, for building their salt store-houses for storing and packing coarse salt. And on giving to the superintendent of the salt springs notice thereof, in writing, that they have located such lot for said purpose, said superintendent shall give to such individual or company requiring the site for such store-house, a lease thereof for the use aforesaid; and the superintendent shall lay out into suitable size for fine salt blocks all other lands belonging to the said people, lying on the east side of said "side cut," and lease the same to be used for fine salt manufactories, in the manner provided by law.

Lands on west side of north side cut. § 43. The lands bordering on the west side of said "north side cut," as extended under the act of the fourth of April, eighteen hundred and fifty-six, for two hundred feet in depth, which have been set apart for the use of coarse salt works, are hereby set apart for the use of the fine salt works by the lessees of said lands, or their assigns, except so much thereof as may be necessary for the purpose of building store-houses for the said coarse salt works, by the lessees of said lands; but in case the said lessees, or their assigns, shall not use said lands so set apart for fine salt works, within three years after the completion of the "north side cut" canal extension, as provided in the act above mentioned, then the superintendent may lease the same in the same manner as other fine salt lots are leased by him.

Superintendent to lease certain lots. § 44. It shall be the duty of the superintendent to lease, for the term of thirty years, from and after the twentieth day of June, eighteen hundred and fifty-nine, to the present lessees, their assigns or legal representatives, the several lots called salt manufacturing lots, or parts of lots, on the Onondaga salt springs reservation, the fee of which is now owned by the state, and which have been and may hereafter be occupied for the purpose of manufacturing fine salt, subject to the same regulations and restrictions as now are or may hereafter be imposed by law; but no lease given under this act shall be construed or operate in such manner as to affect the validity of any mortgage or other security held by any person upon the property or estate thus leased. No improvements on the salt manufacturing lots, except the salt manufactories and their necessary appendages, shall be paid for by the state, if any lease hereby authorized shall not be renewed at the expiration of thirty years, or if, before the expiration of said term, the state shall provide by law for vacating such lease; the provisions of this section as to leasing salt lots shall not apply to the salt lots on blocks number twenty-one and twenty-four, lying between Willow street and Bridge street, on the Oswego canal, in the fourth ward of the city of Syracuse.

Leases. § 45. All leases of lots to be given hereafter for the manufacture of fine salt shall be signed, sealed and acknowledged by said superintendent and lessee, before any officer authorized to take the acknowledgment of deeds, and said leases shall be recorded in the office of the clerk of Onondaga county, in a book to be provided by him for that purpose, in the same manner as deeds or conveyances of real estate are now recorded; and all legal provisions or enactments regulating the execution, acknowledgment and recording of deeds shall apply to such lease; and the record, or a certified copy thereof, shall be evidence in all courts and places, and the recording of leases in the superintendent's office is hereby dis-

continued. All erections for the manufacture of salt shall be deemed real and not personal estate, and all deeds, mortgages, and conveyances thereof, hereafter made, shall be recorded accordingly in the county clerk's office; but this provision shall not affect any lien or mortgage now existing, or any right of the people of this state in lands covered by such erections.

Earthworks, etc. § 46. Whenever the construction of any earthwork shall be undertaken by the superintendent of the Onondaga salt springs, that shall require the services of an engineer, said superintendent may make application to the canal commissioner in charge of the Oswego and Erie canal on said reservation, for the services of such engineer; and if, in the said commissioner's judgment, the interests of the state will be promoted by the employment of such engineer, said commissioner may direct the resident engineer, on either the Oswego or Erie canal, by an order, in writing, to assume the charge of such work, under the direction of the superintendent, and to make surveys, maps, profiles, estimates and measurements thereof, in the same manner as if such work was a part of the public improvements of this state.

Brine, when not to be furnished. § 47. The superintendent shall not furnish brine to any erection for the manufacture of fine salt, or for the manufacture of coarse salt, other than such as is authorized by the forty-first section of this act, which may be hereafter erected, either upon vacant lands or by doubling the blocks on lots now used and occupied for manufacturing purposes, until the quantity of brine raised and distributed by the state shall be sufficient for fully supplying all the existing works through the manufacturing season, without classifying the same for any part of the time.

Duty of inspectors. § 48. It shall be the duty of the inspectors, in their respective districts, to examine, daily, all kettles used in the manufacture of fine salt, and if any such shall be damaged or defective in any respect, so as to be unsuitable for the manufacture of good salt, to require their removal; and unless such condemned kettles shall be removed upon his order, the superintendent shall have power to withhold the brine from such manufactory until such order shall be complied with.

Leases of certain lots. § 49. At any time after the expiration of the existing leases for fine salt manufacturing lots, lying and being on blocks number twenty-one and twenty-four, between Willow street and Bridge street, on the Oswego canal, in the fourth ward of the city of Syracuse, to wit: after the twentieth day of June, eighteen hundred and fifty-nine, the commissioners of the land office (if in their judgment the public interest and the interests of the city of Syracuse shall thereby be promoted) are authorized and required to sell and dispose of the same, in the manner hereinafter provided. [*Thus amended by L. 1860, ch. 270.*]

Duties of commissioners of land office. § 50. The commissioners of the land office, before they proceed to dispose of the lands described in the foregoing section, shall cause a map to be made of the same, subdividing the said blocks (twenty-one and twenty-four) into lots, corresponding to those severally occupied and used for the manufacture of salt, the possession of which is held by the occupants thereof, under leases made and executed by the superintendent of the Onondaga salt springs; after which, the said commissioners of the land office shall appoint three discreet persons, whose duty it shall be to appraise the value of said several lots, separately from the erections thereon, and mark the prices at which they shall value them respectively, on the map so provided. They shall also appraise separately the value of all erections which are located on said lots, and belonging to the occupants or lessees thereof, and likewise mark the appraised value thereof on the said map, upon the respective lots designated upon the same. After which the said appraisers shall return the said map, accompanied with a written report of their appraisement, verified by their oaths, to the office of the state engineer and surveyor at Albany; whereupon the state engineer and surveyor shall cause a written notice to be served upon each of the respective occupants of said lots, of the completion of such appraisal and the amount thereof.

State engineer and surveyor. § 51. The state engineer and surveyor shall, after giving legal notice of the same, dispose of the said lots at auction, to the highest bidder, but not at a less price than the appraised value of the same; but the purchaser, before he shall be entitled to the possession of the lot which he shall have so purchased, shall also pay to the person or parties entitled thereto, or to the state treasurer for the benefit of the parties so entitled, the appraised value of their erections, as determined by the appraisal hereinbefore provided for. And after the expiration of one year from the sale of said lots, or any of them, no brine shall be furnished from the state wells or reservoirs for the manufacture of salt on the lot or lots so disposed of.

Sale of lots. § 52. The sale of the lots provided for in the foregoing sections of this act shall not be made by the commissioners of the land office or the state engineer and surveyor, unless it shall be apparent to them, after the appraisals provided for are completed, that the moneys which will be derived from such sale by the state, will be more than sufficient to purchase an equal quantity of other lands, alike convenient for the manufacture of salt, and the moneys received by the state from such sale, or so much thereof as may be necessary to purchase an equal quantity of land, shall be invested by the commissioners of the land office in other lands for the manufacture of salt, in accordance with the provisions of the Constitution of this state.

Leases to be made. § 53. The superintendent of the Onondaga salt springs is authorized and required, after the expiration of the existing leases, to lease to the present lessees, their assigns or legal representatives, the several salt lots lying between Willow street and Bridge street, aforesaid, for a term of from three to five years, at his discretion, and in like manner, from time to time, at the expiration of the same, until the sale herein provided for shall be had, subject to the same regulations as now are or may hereafter be prescribed by law; but such leases shall not affect the validity of any mortgage or other security held by any person upon the lot thus leased, or the erections thereon. And after the sale of the aforesaid salt lots, if any purchaser of the same shall remove any salt manufactory thereon to some other convenient locality for the manufacture of salt, the superintendent of the Onondaga salt springs shall furnish brine to the same, in the same manner that he would be required to do if the manufactories had remained on the lots on which they are now located, and the existing leases of the same had been continued or renewed.

Sale of certain lots. § 54. The sale herein authorized of the salt manufacturing lots aforesaid, lying between Willow and Bridge streets, or any of them, shall only be made so as to take effect, and possession thereof be given to the purchaser, at the expiration of the term for which the same may have been leased, at any time hereafter; unless the lessee of any of the lots aforesaid shall waive his rights under this section, and by his consent in writing, filed with the commissioner of the land office, shall authorize them to proceed to such sale immediately.

Lands, when not actually occupied. § 55. Whenever any of the lands granted by the commissioners of the land office for the manufacture of coarse salt shall not be actually occupied for that purpose by the commencement of erections thereon, within two years from the date of such grant, the superintendent may lease the same from year to year, and until the same shall be wanted for actual occupancy, to any person who will pay the largest rent therefor.

Leases, limitations of. § 56. The leases which may be given by the superintendent to the owners of fine salt works which may be hereafter erected shall contain the same limitations and restrictions as are embraced in the leases given under the forty-fourth section of this act, but such leases shall only convey to the lessees respectively a right to the use of the surplus water, in the order of the erection of their works, as hereinbefore provided.

Powers of superintendent. § 57. The superintendent may enter upon and take possession of any well for supplying brine belonging to any individual or associa-

tion, and appropriate the same for the use of the state, paying the reasonable value therefor as the same may be agreed upon between the parties, but not to exceed its original cost, or in case of the inability of the parties to agree upon such value, then such sum not to exceed the cost aforesaid, which may be awarded by the commissioners to be appointed for that purpose as provided by section thirty-one of this act.

Rights of persons engaged in manufacture of salt. § 58. Any person or association engaged in the manufacture of salt, who shall provide an earth reservoir for the storage of salt water, shall be permitted to have the same filled by the superintendent, at any time when there may be a surplus not required for immediate distribution, and shall be allowed to use the same in their works in addition to the ordinary supply to which they may be entitled under the forty-third section of this act.

Boundaries of inspection districts. § 59. The superintendent may establish, and from time to time alter the boundaries of the inspection districts, so as to allow of the inspection of salt at the offices most convenient to the officers in charge and to the owners of the salt works.

ARTICLE IV.

REGULATIONS AND PENALTIES CONCERNING THE USE OF THE SALT WATER AND THE MANUFACTURE OF SALT.

Individual associations not to interfere with state property. § 60. No individual or association shall occupy any lands with their erections for manufacturing purposes which, in the opinion of the superintendent, shall interfere with the free and convenient use by the state of the grounds adjacent to the pump-houses, reservoirs and other public works, or which shall obstruct access to the same, or the lines of aqueducts for the distribution of brine.

Brine not to be delivered at certain times. § 61. It shall not be lawful for the superintendent to deliver, or suffer to be delivered, any brine to the fine salt manufacturers, during the months of December, January, February or March.

[Section 62, repealed by L. 1886, ch. 593.]

No ingredient to be put in the water, etc. § 63. No manufacturer of salt or other person shall be allowed to put any article or ingredient into the salt water, either when in his cisterns of whilst evaporating, other than such as shall, from time to time, be allowed and approved of by the superintendent in the general rules and regulations which he shall adopt in relation thereto; and every person offending against any such rule or regulation shall, for every such offense, forfeit the sum of fifty dollars.

Bittern pan. § 64. Each manufacturer shall keep one good bittern pan, for each kettle or pan which he shall employ in the manufacturing of salt, for the purpose of removing the feculent matter and other foreign substances held in solution in the brine during the process of making salt.

Using pans. § 65. It shall be the duty of the superintendent, in the general rules and regulations which he shall adopt, to regulate the manner of using such pans, and of removing the impurities contained in the salt water, during the process of manufacturing the same into salt, and the manner of cleansing the kettles and pans.

Refusal to comply with rules. § 66. If any manufacturer of salt, salt boiler, salt packer, or other persons employed in or having charge of a salt block or salt manufactory, shall refuse to comply with the provisions of law or any of the rules and regulations adopted by the superintendent, published in accordance with the provisions of this act, on such refusal or non-compliance, it shall be the duty of the superintendent to stop all communication between the salt block or salt manufactory, and the state reservoir, so that no salt water shall come to such block or manufactory where such offense shall be committed, and it shall remain stopped until the provisions of this act are complied with.

Examinations by superintendent or deputy. § 67. It shall be the duty of the superintendent or his deputy, in his daily examinations, to examine particularly as to any leaks or waste of salt water from the cisterns attached to the several manufactories, or from the logs or conduits leading the water to the same; and as to any leak or waste of salt water, either by negligence or design, whether the same be in the cisterns, logs or conduits, or in the use of water in the manufactory, or in letting the same into the cisterns, or in any other manner; and to order the owner or other person occupying such manufactory, or any of his agents and servants who may be present, forthwith to stop such leak or waste.

Orders to be complied with. § 68. In case such order shall not be complied with as soon as may be practicable, the superintendent or deputy shall stop all communication between such manufactory and the logs and conduits leading to the state reservoirs, so that no more salt water shall come to such manufactory for any period not to exceed thirty days, at the discretion of the superintendent.

Communication not to be opened unless by consent. § 69. Every manufacturer or other person who shall open the communication between any manufactory or salt work, and the logs or conduits leading to or connecting with the state reservoirs, without the consent of the superintendent or one of his deputies, or shall aid, assist, counsel, or advise in opening the same, without such consent, shall forfeit the sum of one hundred dollars.

Unauthorized communication. § 70. If at any time, any unauthorized communication shall be detected, by which the proprietors of any coarse or fine salt works shall be found to receive or obtain the salt water from the state reservoirs or aqueducts, surreptitiously, or in greater proportion than the superintendent shall deem proper to furnish, the owners of such salt works shall forfeit and pay on the demand of the superintendent, the sum of one hundred dollars for each offense, and in default of payment shall be deprived of their supplies of water, under his direction, until such demand shall be complied with.

Two cisterns to each factory. § 71. Each manufacturer of fine salt shall have two cisterns or reservoirs attached to and adjoining his manufactory. Such cisterns or reservoirs shall be well made, and, as near as may be, free from leaks; and each of them shall be of sufficient capacity to contain as much salt water as can be boiled or evaporated in such manufactory, from the kettles or pans set therein, in two days.

Neglect to provide cisterns. § 72. No manufacturer of fine salt, who shall neglect to provide such reservoirs or cisterns, or who shall neglect to keep the same in good repair, so as to save the water from undue or unnecessary waste, shall be entitled or permitted to receive any salt water from the state reservoirs.

Habitual neglect to comply with rules. § 73. If any manufacturer of salt shall be found habitually neglecting any of the rules and regulations prescribed by the superintendent, or by law; or shall be in the habit of making bad salt; or if the quantity of salt inspected from his manufactory shall be found materially less than is usually produced from a manufactory of the same capacity of kettles, for the time it was actually in operation; it shall be the duty of the superintendent to suspend the right of such person to carry on such manufactory, for such length of time as he may deem proper, not exceeding three months at any one time.

Boiler, neglect, etc. § 74. If any boiler, packer, or other laborer, employed by any manufacturer, shall neglect or refuse to obey the directions that may be given him by the superintendent, or any of his deputies, in and about any salt works or manufactory, in respect to the manufacture, packing, or care of the salt so produced by such manufacturer, and to be offered for inspection, it shall be the duty of the superintendent to require the discharge of such offender from his employment, and such person so discharged shall not be again employed by any person in the manufacture of salt, without the consent of the superintendent.

Buildings to be kept in repair. § 75. It shall be the duty of every manufacturer to keep all his buildings, cisterns and appurtenances for the manufacture of salt in a state of thorough repair, so that the salt manufactured by him shall not suffer damage, or be impaired in quality after the same shall have been deposited in the bins or store-houses; and if any manufacturer shall neglect or refuse, upon the requisition of the superintendent, to place his works in such a state of repair, or to put them in a proper condition, for the manufacture and preservation of good salt, he shall forfeit his right to the use of the salt water, and the superintendent may disconnect the communications between the state aqueducts and his cisterns, until such manufacturer shall comply with the requisitions of the superintendent.

ARTICLE V.

REGULATIONS AND PENALTIES CONCERNING THE INSPECTION, PACKING AND REMOVAL OF SALT, AND THE PAYMENT OF DUTIES THEREON.

Superintendent to superintend the manufacture and inspection of salt. § 76. It shall be the duty of the superintendent and his deputies, charged with the inspection of salt, carefully and constantly to superintend the manufacture of the salt carried on in the several fine and coarse salt manufactories; to examine and inspect the salt made therein, in the various stages of its production, in kettles and vats, and in the bins and store-houses; and when inferior or impure salt is made, to require that the same shall not be mixed with salt that is suitable for passing inspection, but shall be separated therefrom, and either destroyed or returned to the cisterns to be dissolved, or otherwise deposited in some proper place to be disposed of as salt of second quality. And no salt shall be allowed to be packed and branded that shall not be clean and pure, and of the best quality, in all respects.

Inspection. § 77. Every person desiring to have salt inspected, shall apply to the inspector, in the district where the same shall be, who shall thereupon actually examine the salt so offered for inspection, in a bag, barrel or other vessel in which the same may then be.

Id. § 78. To facilitate such examination, it shall be the duty of the person offering the salt for inspection, to unhead or bore the barrel, or to open the bag or other vessel in which the salt is contained, as may be directed by the inspector, so as to expose the salt to his touch, view and examination.

Id. § 79. The inspector shall not pass any salt as good, unless he shall find it to be well made, free from dirt, filth and stones, and from admixtures of lime, or of ashes of wood, and of any other substance which is injurious to salt, fully drained from pickle, the bitters properly extracted therefrom, and manufactured as directed by this act, and by the rules and regulations of the superintendent.

Id. § 80. The persons offering the same for inspection, shall in all cases provide the necessary strength to lift the salt, while the inspector weighs or measures it.

Duplicate inspection bills. § 81. Whenever the inspector shall have ascertained the quantity of salt in any parcel offered for inspection, and shall be satisfied that it is of such quality that it ought to pass inspection, he shall deliver duplicate inspection bills thereof, dated and signed by him, to the person applying for the inspection.

Names of persons to be in bills. § 82. In such bills of inspection there shall be stated the names of the persons at whose instance the inspection is had, and of the manufacturer; the number of bushels and pounds of salt contained in the parcel; and the number of bags, barrels or other vessels in which it shall be contained; together with a certificate of the inspector, stating that he has inspected the salt specified in such bills.

Application for inspection. § 83. The person applying for inspection shall thereupon repair to the receiver's office in the district where the salt is inspected, and deliver to the receiver or person keeping such office, such duplicate inspection bills, and pay the duties on the salt mentioned therein.

Receiver, duty of. § 84. It shall be the duty of the receiver, thereupon:

1. To mark such bills with numbers, in the order in which they are presented, placing the same number upon each duplicate bill of the same parcel; which number shall be commenced anew with the commencement of every month.

2. To enter upon his books an account of the parcels of salt, in which he shall state the number of the parcel; the name of the person at whose instance the same shall have been inspected, and of the manufacturer; the number of bushels and pounds of salt in the parcel; the number of bags, barrels or other vessels in which it is contained; the amount of duties thereon, and the day when the same are paid; and

3. To sign a receipt at the foot of each duplicate inspection bill, and to deliver the same to the person paying the duties.

Bills to be delivered to inspector. § 85. Such person shall forthwith deliver one of the bills to the inspector by whom the salt was inspected, and retain the other as evidence of the payment of the duties thereon. The bills so received by the inspector shall be entered in a book to be kept by him, in the manner above provided.

Duty of inspector on receipt of bills. § 86. Such inspector, upon receiving the inspection bill so receipted, shall thereupon brand, or mark with durable paint, the barrel or cask containing the salt so inspected, with the surname at length, and the first letter of his christian name, with the addition of the word "inspector," in letters of at least one inch in length; and shall mark upon the head of the barrel or cask, with durable paint, the number of pounds of salt contained in such barrel or cask.

When inspection complete. § 87. Until one of the inspection bills so receipted shall have been returned to the superintendent, and the salt, when in cask headed up, shall have been so marked or branded, the inspection shall not be deemed complete, nor the payment of the duties consummated.

Salt in barrels. § 88. If the said salt shall be put up in barrels, it shall not be marked unless the barrels are thoroughly seasoned, stout, and well made, with a sufficient number of good strong hoops, to be well nailed and secured, not burned or colored on the inside, or dirty on the outside, nor without having the holes made for inspection, or the knot holes, if any there should be, well and securely plugged up.

Salt not thoroughly drained. § 89. If the said salt shall prove upon examination not to be thoroughly drained, or if, when the barrels are standing on end, water shall exude therefrom, such barrels shall not be branded by the inspector, but the salt therein shall forthwith be emptied back into the bins, where it shall remain for a further period of fourteen days before it shall be lawful again to pack the same.

Barrels to be inspected. § 90. It shall be the duty of the superintendent to cause all salt barrels to be inspected before the same are used for packing salt therein, under such rules and regulations as shall from time to time be adopted and published by him, and all salt shall be rejected when offered for inspection in barrels not inspected, or in inspected barrels not properly secured after the salt is packed therein, so as to preserve the salt from waste or injury.

[Section 91 repealed by L. 1886, ch. 593.]

Inferior salt. § 92. Salt of an inferior quality, dirty, damaged or condemned, may be sold loose or in bulk by the manufacturer thereof at the works, the inspector designating the quantity by weight in the inspection bill, as in ordinary cases, and distinguishing the same as "second quality," and the person having the same inspected paying the duty thereon; but such inferior salt shall not be packed in a manner calculated to deceive an innocent purchaser, as to its real quality, and if packed in barrels in the ordinary manner the same shall be branded in plain letters "second quality."

[Section 93 repealed by L. 1886, ch. 593.]

No inspection after sundown. § 94. No superintendent or inspector shall inspect salt after sundown, or before sunrise; and no salt manufacturer shall retail or deliver any uninspected salt after sundown, or before sunrise; and any person offending against any of the provisions of this section, shall forfeit the sum of twenty-five dollars.

When to be packed. § 95. Salt shall not be packed in casks, barrels, sacks or other vessels, nor shall it be taken from the salt works in bulk or otherwise, until it has remained in the bin or store-house at least fourteen days.

Not to pack until inspection, etc. § 96. Nor shall any manufacturer or other person pack, or cause to be packed, after the said fourteen days shall have expired, in barrels, casks or boxes, any salt until an inspector shall have determined, upon actual examination, that the same is sufficiently drained of pickle and otherwise fit for inspection.

Penalty for disregarding, etc. § 97. If any manufacturer, or other person, shall pack any salt in barrels, casks or boxes, before it shall have lain in the bin or store-house the said term of fourteen days, and before the superintendent shall have determined that it is fit for inspection, he shall forfeit the sum of twenty-five cents for every bushel of salt so packed.

Brand on old barrels to be erased. § 98. Barrels, sacks, or other packages in which salt shall have been packed and inspected, shall not be again used for the packing of salt therein, until the marks or brands made by the superintendent shall be first effaced, and if any person shall pack or cause to be packed, or shall aid or assist in the packing of any uninspected salt, in any such barrel, sack or package, without first effacing such marks or brands, he shall forfeit, for every bushel of salt so packed, the sum of five dollars.

Inspected. § 99. No salt shall be removed from the place where the same shall have been manufactured, until it shall have been regularly inspected, without the consent of the superintendent, unless it be to the superintendent's office for the purpose of being inspected, under a penalty of one dollar for every bushel of salt so removed, to be recovered with costs of suit, against the person or persons so removing said salt or causing the removal thereof. [*Thus amended by L. 1860, ch. 270.*]

Surname of manufacturer. § 100. It shall be the duty of every manufacturer to brand or mark, with durable paint, every barrel or other package of salt manufactured by him, with the surname at full length of the proprietor or owner of the manufactory at which the same shall have been made, and the initial letter of his christian name, and if the same shall have been manufactured for a company or association of individuals, he shall mark or brand in like manner, upon every such barrel or other package, the name of the firm by which the company is usually called.

When not to be inspected. § 101. No inspector shall inspect or pass any barrel or other package of salt, which shall not be marked or branded in the manner prescribed in the last section. It shall be the duty of the manufacturer to brand the name of the district in which his block of kettles is located, upon every barrel or

other package of salt which he may require to be inspected; and the superintendent shall not affix his brand to any barrel or other package of salt which shall not have been so branded by the manufacturer before offering the same for inspection.

[Section 102 repealed by L. 1886, ch. 593.]

Salt found in any of the fourth senatorial district. § 103. In case any barrels, casks or sacks of fine salt, of the appearance and quality of salt usually manufactured in that district of country which, by the act entitled "An act respecting the four great senatorial districts of this state," passed April seventeenth, eighteen hundred and fifteen, was denominated the "western district," shall be found in any of the counties included in that district not marked or branded in the manner hereinbefore directed, it shall be the duty of the superintendent, or any of his deputies, to seize all such salt, and to sell the same for the use of the people of this state, in the manner directed in the one hundred and sixth section of this act, unless the owner of said salt, or the person having the same in possession, shall prove to the satisfaction of the person seizing the same that the duties thereon have been actually paid, or that such salt was not subject to duty.

Attempt to remove from reservation, store-house, etc. § 104. Every person who shall remove, or attempt to remove, from the reservation, or from any salt manufactory, store-house or other place of deposit, any salt, before it shall have been inspected, and the duties thereon paid, with intent to evade the inspection thereof, or the payment of the duties thereon, shall forfeit such salt, together with the bag, barrel or other vessel in which it shall be contained.

12 Wend., 396.

Forfeit. § 105. Every such person shall also forfeit five dollars for every bushel of salt so removed or attempted to be removed; and the boat, vessel, cart, wagon, sled or other vehicle in or by which the same shall be removed or attempted to be removed, together with all the apparel, tackle and team thereto belonging, shall be taken to be the property of such person, and be liable to the payment of such penalty.

Persons who may execute process. § 106. The superintendent and his deputies, and every person by him for that purpose specially deputed, and every person empowered to execute any process issued for any penalty incurred under the last two sections, or either of those sections, shall severally have power to enter any boat, vessel, cart, wagon, sled or other vehicle in or by which such salt shall have been removed, or attempted to be removed, as above specified; to seize all such salt, with the bag, barrel or other vessel containing it, and to sell the same, for the use of the people of this state, at public auction, after giving six days' notice of the time and place of sale.

Seizure. § 107. The officer or person making such seizure may also seize such boat, vessel, cart, wagon, sled or other vehicle, together with the tackle, apparel and team thereto belonging, and may retain the same until the determination of any suit which may be brought for the penalty above imposed.

Property seized. § 108. When any property shall be seized by any officer under the provisions of this act, the owner of such property may obtain possession of the same by giving a bond, with sureties, to the superintendent of said salt springs, for the return of such property to such officer whenever judgment shall be obtained in the suit commenced to recover the forfeiture incurred, to secure which such seizure shall be made. The bond shall be in such form and with such sureties as the superintendent shall approve.

Sale of same. § 109. If such bond shall not be given within twenty days after the seizure of the property, the superintendent may cause the property so seized, or so much thereof as he may consider necessary to satisfy any judgment which may be recovered for any penalty to secure which such seizure shall have been made, to be sold at public auction, on giving such notice as sheriffs are required

to give of the sale of personal property on execution, and retain the proceeds thereof to satisfy such judgment, and pay over the balance, if any there shall be, to any person legally entitled to the same, after such judgment shall have been obtained.

Power of officers. § 110. Such officers or other persons shall also severally have power to enter every barn, store-house, inclosure or other place of deposit which they may suspect to contain salt so removed, or attempted to be removed, to seize all salt so removed, or attempted to be removed, that shall be found therein, with the bag, barrel or other vessel containing it, and to sell the same, in the manner and for the purposes provided in the one hundred and sixth section of this act.

When superintendent shall suspect, etc. § 111. Whenever the superintendent shall suspect that any of the laws relating to the inspection of salt, or the payment of duties thereon, or otherwise, by which a penalty may have been incurred, for which it is his special duty to prosecute, has been violated, he may apply to any magistrate authorized to issue process in criminal cases, for process to bring before him any person suspected to be a material witness touching such alleged violation of law.

Magistrate's power. § 112. Such magistrate shall have the like power to compel the witnesses to attend before him, and to give testimony, as he now possesses in cases brought before him upon complaints for such crimes as may be presented by indictment.

Witnesses to be examined. § 113. Such witnesses shall be fully examined by the magistrate upon all proper points required by the superintendent touching such suspected violation of the law; his testimony shall be reduced to writing, subscribed by the witness and certified by the magistrate, and delivered to the superintendent.

Attendance of witnesses. § 114. The magistrate shall have the like power to secure the attendance of the witnesses before any court for such penalty, when required by the superintendent, as he may now exercise in criminal cases.

Forfeiture, etc. § 115. All penalties and forfeitures for smuggling salt, or for the transporting the same away so as to evade the payment of the duties thereon, when recovered, shall be one-half to the use of the people of this state and the other half to the person who shall give information of the offence.

Quantity of salt in barrels. § 116. The superintendent shall, by regulation, from time to time, specify the quantity of salt that shall be contained in barrels or other packages, which shall be offered for inspection, and it shall not be lawful for him to authorize the inspector's brand to be placed upon any package that does not correspond with the said regulation.

Regulations, etc. § 117. The superintendent shall, by regulation, require that all ground salt manufactured at said salt springs, and put up for the market in barrels, kegs, boxes, sacks or bags, shall be legibly marked on each barrel, keg, box, sack or bag, with the word "solar" or "boiled," as the fact may be; such marking to be done in letters of not less than half an inch in length.

Penalty for putting up inferior quality. § 118. If it shall be found upon opening any barrels or sacks of Onondaga salt, duly branded according to law, that the salt contained therein is of a quality inferior to that required by law, the inspector or deputy who inspected the same shall be liable to a penalty of one dollar for each and every bushel so found inferior, to be sued for by any purchaser or purchasers injured thereby; and the maker and manufacturer whose name is branded on the barrel or painted on the sack shall also be liable to the same penalty for each and every bushel of such salt, to be sued for by the purchaser thereof.

[Section 119 repealed by L. 1886, ch. 593.]

Smuggling salt. § 120. If any deputy or subordinate officer employed by the superintendent shall be guilty of the offences specified in the last section,¹ or either of them, such deputy or officer shall forfeit to the use of the people of this state, the sum of two hundred and fifty dollars, for the recovery of which his bond shall be put in suit.

Damaged salt. § 121. Whenever any salt has been inspected, and on which the duties have been paid, shall suffer any damage, so as either to reduce its weight or impair its quality, it shall be the duty of the superintendent to erase his inspection brand from the package containing the same, and to require that it shall be repacked, if reduced in weight only, or destroyed if impaired in quality, by returning it to the cisterns from which the owner or manufacturer thereof shall draw his supplies of brine for his works.

Boat sunk in canal. § 122. Whenever any boat, laden in whole or in part with salt, shall be sunk in the canals or navigable waters of this state, so as to immerse or damage the same, or if any boat so laden shall be partly immersed or filled with water so as to damage any part of a cargo of salt on board, it shall not be lawful for the owner thereof, or any person in his name or behalf, to sell or otherwise dispose of the same in the original package; but such salt shall be emptied from the barrels or sacks containing it, and may be sold or disposed of after it shall have been exposed to public view, so that its quality and condition may be known. Salt so injured shall not be again packed in barrels bearing the inspector's brand, nor shall it be lawful to ship or transport the same beyond the bounds of this state.

Persons offending against last section, etc. § 123. Any person offending against the provisions of the preceding section, shall forfeit and pay the sum of two hundred and fifty dollars for each and every offense, to be sued for and recovered in the courts of any county where it may be committed, in the same manner as any other penalty prescribed in this act. [*Thus amended by L. 1860, ch. 270.*]

Second quality. § 124. It shall not be lawful for any person to make any use of salt inspected and passed as of "second quality," for the purpose of mixing the same with other salt to be ground, or otherwise prepared for the packing of provisions, or as table salt; and any person offending against this section shall be liable to a penalty of one hundred dollars for each and every offense, to be sued for and collected in the same manner that any other penalty may be recovered under this law.

Act to be printed. § 125. The superintendent shall cause such number of copies of this act to be printed in pamphlet form as he shall judge necessary, and shall cause them to be distributed among the several officers mentioned in this act, and the justices of the peace, constables and salt manufacturers on salt springs reservation.

ARTICLE VI.

MISCELLANEOUS PROVISIONS APPLICABLE TO THE SALT SPRINGS.

Reservation. § 126. Whenever the term "reservation" occurs, in the second, third, fourth, fifth and sixth articles of this act, it shall be construed to extend to the whole of the original reservation for the use of the salt springs.

Manufacturer. § 127. The term "manufacturer," whenever it shall occur in the above mentioned articles of this act, shall be construed to apply to every person

¹ The repealed section here referred to was as follows:

§ 119. If any superintendent shall consent to, connive at, aid or abet the smuggling of salt, or the transportation of the same away, so as to evade the payment of duties thereon, or shall accept of any bribe or sum of money, or any gift or reward whatsoever, upon any express, or secret, or implied trust, or confidence that he shall connive at or consent to any evasion of the laws for the inspection of salt, the payment of the duties on salt or the distribution and delivery of salt water to any of the salt works, such superintendent shall forfeit his office and pay, to the use of the people of this state, the sum of two hundred and fifty dollars.

having, at the time, the charge, direction or control of a manufactory, whether as owner or proprietor thereof, or by lease or hiring from such proprietor.

Exemption of officers. § 128. The superintendent, and each of his deputies, and all persons employed in attendance upon any works for the manufacturing of coarse salt, shall be exempt from serving on juries, and from all military service, except in case of actual invasion or insurrection; and the commission or appointment in writing of any such officer or deputy, and the certificate of any owner or agent of any coarse salt manufactory, that any person is employed or engaged in attending upon such manufactory, shall be evidence of the facts stated therein.

Process may be served on Sunday. § 129. Any process by which the defendant's body is ordered to be taken in any action brought for any forfeiture of¹ penalty under this title, may be issued and served on Sunday, and the defendant held in custody for trial until a reasonable time on the day following, if such process be issued by a justice of the peace; but if issued from any court of record, then the defendant shall be detained until he shall give bail, as in actions where defendants are held to bail.

Absence of civil officers. § 130. If no civil officer be present to serve any such process, the superintendent or either of his deputies shall be and they are hereby respectively authorized to serve such process, whether the same be issued and served on Sunday or any other day.

Bail may be taken. § 131. In case process issued out of any court of record shall be so served, bail shall be taken in the name of the sheriff in the same manner as though such process had been served by one of his deputies; but the sheriff shall not be responsible for the sufficiency of such bail, unless the defendant shall have been actually committed to jail, in which case he shall be responsible as in other cases.

Suit for recovery of penalty. § 132. If any suit for the recovery of any such penalty or forfeiture shall be prosecuted by warrant issued by any justice of the peace of the county of Onondaga, it shall not be lawful for such justice to adjourn the cause, on the prayer of the defendant, unless such defendant shall consent that the justice take the testimony, in writing, of any witness on the part of the plaintiff, then present, but actually residing without the county of Onondaga.

Testimony may be taken. § 133. If the defendant shall consent, the justice shall then proceed to take such testimony in the presence of the defendant, and reduce the same to writing, after which the cause may be adjourned, and the testimony so taken shall be received in evidence on the trial of the cause.

Judgment. § 134. Whenever a judgment shall be obtained before a justice of the peace against any person for any penalty or forfeiture under this act, and an execution be issued thereon, in case the officer having such execution shall not be able to levy the same on any property of the defendant, he shall commit the defendant to the jail of the county, where he shall remain confined within the walls of the jail, without bail, for the term of sixty days, unless he shall sooner pay or satisfy such execution; and every execution so issued shall contain a clause, ordering the defendant to be imprisoned, as above specified, unless property whereon to levy such execution shall be found by the officer to whom the same shall be directed.

Judgment in court of record. § 135. Whenever a judgment shall be recovered in a court of record for any penalty or forfeiture incurred under this act, and an execution thereon against property shall have been returned unsatisfied, in whole or in part, the defendant, upon any execution against his body, shall be imprisoned within the walls of the county jail, in the manner above provided, one day for each dollar in the penalty recovered in such cause, and then remaining unpaid, without bail unless he shall sooner satisfy such execution.

¹ So in original.

Defendant not to be out of jail. § 136. If at any time any defendant so committed to jail shall be found without the walls of the jail before he is entitled to his discharge, it shall be deemed an escape, and the sheriff shall be liable for the amount due on the execution.

ARTICLE VII.

OF THE SALT SPRINGS AT MONTEZUMA.

Montezuma springs. § 137. The care and superintendence of the Montezuma salt springs shall be vested in a superintendent, who shall be appointed by the governor of this state, and shall hold office for three years.

Superintendent's authority. § 138. Said superintendent shall exercise all the authority and be charged with all the duties pertaining to the manufacture and inspection of salt at Montezuma, which are required to be performed by the superintendent of the Onondaga salt springs; and all the provisions contained in this act relating to the collection of duties and imposing penalties, by said superintendent, shall be in force, so far as the same shall be applicable.

Any person hereafter appointed superintendent. § 139. Any person hereafter appointed to the office of superintendent, shall, within thirty days after he shall receive notice of his appointment, execute a bond in the sum of five thousand dollars, with two sureties, to be approved by the comptroller, whose approbation shall be indorsed on said bond, conditioned that such person shall faithfully and honestly execute and perform the duties of said office, as the same is or may be hereafter prescribed by law.

Property of state at Montezuma. § 140. All lands, wells, springs, buildings and machinery or property belonging to the people of this state at Montezuma, used in the manufacture or inspection of salt, or used in raising salt water, shall be in the charge and custody of said superintendent.

Compensation of superintendent. § 141. For his compensation, such superintendent shall receive for his own use all the duties on salt inspected by him, until the same shall exceed the sum of two hundred fifty dollars; and the excess over that sum shall be expended in repairing, buildings, machinery, reservoirs and other property under his charge belonging to the people of this state.

Water of canal. § 142. The superintendent, with the consent of the canal commissioners, may take water from the canal sufficient to carry a pump for the purpose of raising salt water to supply the works now or which may be hereafter erected; but the water so taken may be resumed by the canal commissioners, whenever, in their opinion, it may be necessary for the use of the canal.

Repairs. § 143. The superintendent shall keep in repair the erections belonging to the state, and used for supplying the salt works with brine; and may dig new wells and make such new erections as he may think needful and proper, paying for the same out of any surplus funds in his hands, arising from fines or duties on salt, or any appropriation which may be hereafter made for such purpose by the legislature rendering an account annually to the comptroller of his receipts and expenditures.

Repeal. § 144. Title ten, chapter nine, part first of the Revised Statutes, entitled "Of the salt springs," and all acts and parts of acts in addition to or amendatory thereof, are hereby repealed.

L. 1866, Chap. 814 — An act to amend chapter three hundred and forty-six of the laws of eighteen hundred and fifty-nine, entitled "An act concerning the salt springs and the manufacture of salt.

[Sections 1 and 2 amend L. 1859, ch. 346.]

Oaths to be administered by superintendent. § 3. The superintendent shall have power and it shall be his duty to administer oaths to his deputies, foreman and

employees, in regard to returns of check-rolls, and any other matter relating to their duties, when he shall deem it necessary, and any wilful false swearing on their part in relation thereto, shall be held to be perjury.

L. 1870, Chap. 279 — An act to amend an act entitled “An act to provide for the extension of the manufacture of coarse salt, by solar evaporation,” passed April seventeenth, eighteen hundred and fifty-four.

[Section 1 amends L. 1854, ch. 391.]

Superintendent to furnish water to fields in Camillus. § 2. The superintendent of the Onondaga salt springs is hereby authorized and required to furnish the coarse salt fields, on so much of the state's one hundred acres on lot number sixty-nine, in the town of Camillus, as lies between the Erie canal and the New York Central railroad, with water from the state pumps, in the same manner and to the same extent as is provided for erections built prior to eighteen hundred and fifty-nine, by section forty-one of chapter three hundred and forty-six of the laws of eighteen hundred and fifty-nine.

L. 1874, Chap. 200 — An act to authorize the appraisal and sale of leased fine salt lots, on the Onondaga salt springs reservation, by the commissioners of the land-office.

Commissioners of the land-office may sell salt lots. SECTION 1. If at any time hereafter the commissioners of the land-office shall, in their judgment, determine that it would be for the best interests of the state to sell and convey in fee any of the fine salt lots laid out and set apart for the manufacture of fine salt on the Onondaga salt springs reservation, then, in case the superintendent of the Onondaga salt springs shall officially certify that such lot or lots are not necessary for the manufacture of salt, and may be sold and disposed of without injury to the interests of the state, and the lessee, lessees, or their legal representatives, shall request said lot or lots to be appraised and sold, and shall release absolutely all right to have, demand or receive of and from the state any moneys, by way of damages, either on account of the termination of the leases by which said lot or lots are held, or on account of the destruction or removal of any salt blocks, their appurtenances, or any other property or buildings therefrom, or any part or portion of the appraisement, value or bid as hereinafter provided, the said commissioners may, in their discretion, cause the said lot or lots to be appraised and sold, and the fee thereof to be absolutely conveyed to the purchaser or purchasers of the same.

Lessees, privilege of, to purchase; not to be sold at less than appraised value. § 2. Upon the appraisement of the value of any lot or lots mentioned in the preceding section, being returned to and approved by the commissioners of the land-office, the lessee or lessees of said lot or lots, or their legal representatives, shall have the right and privilege, for thirty days after the date of such approval, to become the purchasers of such lot or lots at the appraised value thereof upon the usual terms as to times of payment of principal and interest; but in case the power or right of purchase at such appraisal shall not be exercised within the time limited, the right so to do shall cease, and the said lot or lots shall be advertised and sold under the direction and control of the said commissioners to the highest bidder; but no such lot or lots shall be sold unless the amount bid to be paid therefor shall be at least equal to the appraised value thereof as approved by the said commissioners, and in case such owner or owners or their legal representatives do not decide to take such lands at such appraisal, and no sufficient bid is made therefor the title thereof shall vest and be in the state of New York, released and discharged from the terms and conditions of any such lease, and such lessee shall remove the buildings within the time and as provided in section four of this act.

Certain provisions of Revised Statutes applicable. § 3. So much of articles two and three of title five, of chapter nine of part one of the Revised Statutes, which title is entitled "Of the public lands and the superintendence and disposition thereof," as is applicable to the lands in this act described (reference being had to the manner of appraisement, advertisement for sale, and sale and payment of the purchase money, and the execution and delivery of the grants therefor,) is hereby made a part of this act.

Lessees to remove buildings, etc. § 4. Upon the sale of any of the lots in this act provided for, if the lessee, lessees, or their legal representatives, shall not be the purchaser or purchasers of said lot or lots, then in such case they, or either of them, shall remove or cause to be removed, within thirty days after such sale or sales, all buildings or other property belonging to them, or either of them, off from such lot or lots; and in case of failure so to remove such buildings or property within the time herein specified, the same shall be considered as given up and abandoned, and shall become and be the property of the person or persons so purchasing said lot or lots, aforesaid.

Other lands to be purchased if necessary. § 5. All moneys arising from the sale of any lot or lots, by virtue of the provisions of this act, shall be placed by the comptroller in the state treasury for the use and benefit of the general fund; but the commissioners of the land-office shall purchase other lands, as required by the provisions of section seven of article seven of the Constitution, provided, that by the sale of any lot or lots under this act it shall be necessary so to do, in order not to decrease the aggregate of the lands set apart for the manufacture of salt at the time of the adoption of the Constitution.

Sale of salt lots. § 6. The commissioners of the land-office may, in their discretion, appraise and estimate the value of any other lands now under lease from the state on said reservation, and not needed for the manufacture of salt, such lands to be appraised and valued exclusive of any improvements made by the lessees on said lots, and they may sell them in the same manner and on the same terms as hereinbefore provided, giving to the said lessees the same pre-emptive right of becoming the purchaser or purchasers, as provided in the second section of this act. [*Added by L. 1878, ch. 374.*]

L. 1878, Chap. 374 — An act to amend chapter two hundred of the laws of eighteen hundred and seventy-four, entitled "An act to authorize the appraisal and sale of leased fine salt lots on the Onondaga salt springs reservation, by the commissioners of the land-office," and to authorize the sale of certain coarse salt lands, the removal of vats therefrom, and the purchase of other lands in lieu thereof.

[Section 1 amends the act of 1874.]

Sale of coarse salt vats and lands. § 2. The commissioners of the land-office are hereby authorized and required, upon the application of the superintendent of the salt springs, to examine into the condition of the coarse salt vats and lands situated between the tracks of the New York Central and Hudson river railroad, in the town of Geddes, Onondaga county, and if it shall appear to them that the same have been rendered unsuitable for the manufacture of salt, by reason of the erection of fine salt chimneys in the neighborhood or for other reasons for which the owners thereof are not responsible, they are hereby further authorized and required to appraise and estimate the value of said lands, and to dispose of them in the same manner as is provided by law for the sale of fine salt lands or lots, and shall procure for lessees of said lands other lands suitable, for their use, and the cost of said lands so to be purchased together with the expense of the removal of said vats shall be paid from the proceeds of the lands so ordered to be sold.

Superintendent to have charge of removal. § 3. The superintendent of the salt springs shall have full charge of the removal of such vats and the expense thereof shall be paid upon his certificate.

L. 1880, Chap. 139 — An act concerning the manufacture of salt and the inspection thereof.

Superintendent may allow salt to be manufactured without extracting impurities, such salt to be branded as agricultural. SECTION 1. The superintendent of the Onondaga salt springs shall allow salt made from the brine of said springs to be manufactured on the Onondaga salt springs reservation, without extracting the bitterns or impurities from such salt; but all such salt, whether shipped loose, in bags, barrels or packages, shall be designated and branded as impure and agricultural salt.

Inspection. § 2. No salt which, under the rules and regulations now in force, is entitled to be inspected as first quality, shall be inspected until the same shall be called for to be immediately shipped from the manufactory where the same is made; but if any loose salt, or salt contained in bags, barrels or packages shall, after the same has been inspected, have been kept in damp or exposed situations, without being properly sheltered or protected, and consequently injured, blackened or stained, either in the salt or in the package containing the same, such salt shall be reinspected and rebranded as second quality, and the absolute weight as well as the quality shall be determined by the brand of the superintendent of the Onondaga salt springs.

Dairy salt. § 3. No dairy salt shall be made on the Onondaga salt springs reservation from salt made by boiling unless the same shall, in addition to the ordinary process of making the salt, be purified by a chemical process, so as to take from it all impurities as far as can be, to render it equal to the best standard of dairy salt known in the markets of this state.

L. 1877, Chap. 198 — An act authorizing the commissioners of the land-office to exchange lands on the Onondaga salt springs reservation.

Exchange authorized; state to pay no difference. SECTION 1. The commissioners of the land-office may, in their discretion, whenever, in their judgment, it shall be for the interest of the state, exchange any lands on the Onondaga salt springs reservation, set apart for the manufacture of fine or coarse salt, for any lands belonging to individuals which would, in their opinion, be better adapted and more available for the manufacture of salt; provided, however, in no case shall such exchange be made for a less amount in area of land. Nor shall any money be paid by the state for any supposed difference in the value of the individual land in excess of the value of the land of the state, but the state may demand and receive any difference in money in the value of the state land, which, in the judgment of the said commissioners of the land-office, there may be over the value of the individual land so offered in exchange.

L. 1880, Chap. 574 — An act supplementary to chapter three hundred and seventy-four of the laws of eighteen hundred and seventy-eight, entitled "An act to amend chapter two hundred of the laws of eighteen hundred and seventy-four, entitled 'An act to authorize the appraisal and sale of leased fine salt lots on the Onondaga salt springs reservation, by the commissioners of the land-office, and to authorize the sale of certain coarse salt lands, the removal of vats therefrom, and the purchase of other lands in lieu thereof.'"

Superintendent may contract for removal of vats, etc. SECTION 1. The superintendent of the Onondaga salt springs is hereby authorized and required to contract with the owners for the removal of the coarse salt vats and other erections, situated in the town of Geddes, from their present location, deemed unsuitable for the manufacture of coarse salt by the commissioners of the land-office, pursuant to chapter three hundred and seventy-four of the laws of eighteen hundred and seventy-eight, to other lands suitable for such purpose, to be provided for them by the commissioners of the land-office.

Cost of removal, how paid. § 2. The cost of said removal shall be paid for by

the comptroller from funds received from duties upon salt when the superintendent shall certify to them that the work has been properly done, and the salt yard is in suitable condition for the manufacture of salt.

Cost of land, how paid. § 3. The cost of the land to be purchased by the commissioners of the land-office, to carry out the provisions of this act shall be paid from the funds received from the sale of other lands, or from duties upon salt; and when the land, upon which the present erections are now located, is sold, and the money received from such sale, the same shall be paid into the fund from which the money to carry out the provisions of this act shall have been drawn.

L. 1883, Chap. 251—An act to authorize the superintendent of the Onondaga salt springs to permit the Solvey Process Company to bore and sink wells on the Onondaga salt springs reservation.

Superintendent to permit company named to dig and bore for salt water. SECTION 1. The Solvey Process Company, a corporation duly organized under the laws of this state for the production and manufacture of soda ash, may, with the consent and approval of the superintendent of the Onondaga salt springs, dig and bore for salt water on the Onondaga salt springs reservation at such points thereon as the said superintendent may designate and approve, and for that purpose may have free ingress and egress for the purpose of such digging and boring of wells, and for the erection of suitable machinery and appliances, conduits and aqueducts to raise, pump and carry the salt water so to be obtained, to the manufactories of such company; but at any time when, in the opinion of the superintendent of the Onondaga salt springs, it shall be against the interests of the state longer to permit the enjoyment of the privilege here above authorized to be granted, he shall immediately notify the said The Solvey Process Company, and thereupon the use and enjoyment of the salt water from the wells so to be dug and bored by said company shall cease, and said company may have reasonable time to remove the machinery, conduits and aqueducts which they built, erected or laid down under this act.

State not liable for damages, etc. § 2. In the event of a removal or ceasing to use the privileges granted under section one aforesaid, in no case shall the state be liable to pay any damage on account of such removal to the said The Solvey Process Company, nor for any cost or value of the wells which may be dug and bored by said company, but the wells so dug and bored shall in such case be and remain the property of the state.

TITLE XI.

TITLE 11.

[281]

Of the Interest of the State in Mines.

- SEC. 1.** What mines belong to the state in right of sovereignty.
 2. Other mines belonging to the state.
 3. What mines belong to the owner of the soil.
 4. Discoverers of gold and silver mines, to have benefit thereof for twenty-one years.
 5. Notice to be given to the secretary of state by such discoverer.
 6. Such discoverer to be preferred in subsequent contracts for the working of the mines.
 7. Limitation of the provisions of this title.

SECTION 1. The following mines are, and shall be, the property of the people of this state, in their right of sovereignty: Interest of state as sovereign.

1. All mines of gold and silver discovered, or hereafter to be discovered, within this state.

- TITLE 11.** 2. All mines of other metals discovered, or hereafter to be discovered, upon any lands owned by persons not being citizens of any of the United States.
3. All mines of other metals discovered, or hereafter to be discovered, upon lands owned by a citizen of any of the United States, the ore of which, upon an average, shall contain less than two equal third parts in value, of copper, tin, iron and lead, or any of those metals.
[1 R. L., 124, §§ 1 and 5; 293, § 5.]
- As owner.** § 2. All mines, and all minerals and fossils discovered, or hereafter to be discovered, upon any lands belonging to the people of this state, are and shall be the property of the people, subject to the provisions hereinafter made to encourage the discovery thereof.
[L. 1827, 239, § 4.]
- Private property.** § 3. All mines of whatever description, other than mines of gold and silver, discovered or hereafter to be discovered, upon any lands owned by a citizen of any of the United States, the ore of which, upon an average, shall contain two equal third parts or more, in value, of copper, tin, iron and lead, or any of those metals, shall belong to the owner of such land.
[1 R. L., 125, § 5.]
- Bounty to discoverers.** § 4. Every person who shall make a discovery of any mine of gold or silver, within this state, and the executors, administrators or assigns of such person, shall be exempted from paying to the people of this state, any part of the ore, produce or profit of such mine, for the term of twenty-one years, to be computed from the time of giving notice of such discovery, in the manner hereinafter directed.
[1 R. L., 125, § 1.]
- Notice to be given.** § 5. No person discovering a mine of gold or silver within this state, shall work the same, until he give notice thereof, by information in writing, to the secretary of this state, describing particularly therein, the nature and situation of the mine. Such notice shall be registered in a book, to be kept by the secretary for that purpose.
[1 R. L., 125, § 2.]
- [289] Privilege of discoverers.** § 6. After the expiration of the term above specified, the discoverer of the mine, or his representatives, shall be preferred, in any contract, for the working of such mine, made with the legislature, or under its authority.
[1 R. L., 125, §§ 3 and 4.]
- Qualifications.** § 7. Nothing contained in this title shall affect any grants heretofore made by the legislature, to persons having discovered mines; nor be construed to give any person a right to enter on, or break up, the lands of any other person, or of the people of this state, or to work any mine in such lands, unless the consent, in writing, of the owner thereof, or of the commissioners of the land-office, when the lands belong to the people of this state, shall be previously obtained.
[1 R. L., 125, § 4.]

L. 1867, Chap. 943—An act in relation to the working of mines reserved to the state, and to the use and occupation of lands for such purpose.

Power to enter upon lands for purpose of working mines. SECTION 1. In all cases in which a person or persons shall have discovered a mine or mines, and become entitled to work the same pursuant to title eleven, chapter nine, part first of the Revised Statutes, and such person or persons shall form a corporation pursuant to chapter forty of the laws of eighteen hundred and forty-eight, and the several acts subsequent thereto and amendatory thereof, if the consent in writing to enter upon and break up the lands of any person in or upon whose lands said mine or mines are found shall be refused, or cannot be obtained by agreement, or by reason of the infancy or the absence of such person from the state, or other legal disability of the owners of such lands, the said corporation so formed may enter upon and break up the lands of such person for the purpose of working such mine or mines in the manner hereinafter provided, and the right and easement so to do shall be deemed granted for public use, and for the public purpose of obtaining minerals reserved to the state; and the said right and easement are hereby granted to the corporation so formed, on their filing with the commissioners of the land-office a full description of the location of such lands and obtaining a grant thereof from said commissioners, who are hereby authorized to make such grant and file the terms thereof.

Filing of petition and appointment of commissioners to fix damages. § 2. The said company entitled to work such mines may file a petition in the supreme court of the state, setting forth the facts upon which they claim such right and the reasons which prevent their entering upon the land necessary for their mining operations; and upon such petition the court may appoint three disinterested persons as commissioners to examine into the matter, ascertain and fix the damages aforesaid, and report to the court. Notice of the filing of such petition shall be published in one of the papers printed in the county, or in each of the counties where the mine or mines are situated, and in the state paper, and a copy of such notice shall be served personally upon the owners of the land, or, if they are infants, upon their guardians, or if lunatics or under any other legal disability, on the committee having charge of them and their property. And the publication of such notice in the state paper shall be deemed a sufficient notice to such owners as are residents in other states or in other countries, or are temporarily absent from the state, provided that when the actual residence of such absentees is known or can be ascertained, a copy of such notice and petition shall be sent them by mail. All the parties interested shall be entitled to a hearing before such commissioners, at such time or times as said commissioners shall appoint. The report of the commissioners shall state:

1. The existence of the mine or mines proposed to be worked.
2. The names of the parties owning the land in which the mine or mines are situated, and the owners of the adjacent lands, so far as they are affected by the application, and the nature and value of their interest in the same individually. A map of such lands, from actual survey by metes and bounds, shall accompany the report.
3. An estimate of the damages to such owners from the contemplated use and occupation of their lands.
4. Such other information as the court may direct.

Report of commissioners, etc.; order denying or granting petition. § 3. The report of the commissioners shall be made within a reasonable time, to be fixed by the court. An order shall be made, in the discretion of the court, either denying the petition or granting it, and determining the quantity of land necessary for working the mine or mines, the damages to property by taking possession thereof, and the annual rent or the compensation to be paid to the owner, lessee or occupant thereof so long as the use and occupation shall continue. And thereupon the company in whose favor the order shall be made, upon payment of the damages,

and upon entering into an agreement, to be approved by the court, to pay the annual rent or the compensation and damages thus determined, shall have the right to enter upon and occupy and use the land set apart by such order, so long as they or their assignees shall work the said mine or mines and shall pay the said annual rent or compensation.

Guardians for infants. § 4. If the parties owning the land are infants or otherwise incompetent to act, the court shall appoint guardians to take care of their interests, and shall direct how any damages assessed, or compensation or rents to become due, shall be paid and invested for their benefit.

TITLE IX.

TITLE XII.

Of Escheats.

[283] [This entire title was repealed by L. 1880, ch. 245, being superseded by §§ 1977-1981, of the Code of Civil Procedure. The following statute remains still, it is believed, in force.]

L. 1831, Chap. 116 — An act respecting escheated lands.

Lands held under written contract. SECTION 1. Where lands have been or shall be escheated to the people of this state, and the person last seized was a citizen, or capable of taking and holding real estate, the commissioners of the land-office shall fulfil any contracts which may have been made by the person so seized, or by any person from whom his title is derived, in respect to the sale of any such lands, so far only as to convey the right and title of this state, pursuant to such contracts, without any covenants of warranty or otherwise, and shall allow all payments which may have been made on such contracts.

2 Hill, 74; 66 Barb., 374.

Under verbal agreements. § 2. If any part of such escheated land shall have been occupied under a verbal agreement for the purchase thereof as aforesaid, and the occupants shall have made valuable improvements thereon, the same shall be deemed as valid and effectual within the provisions of this act, as if such agreement had been in writing.

Payments. § 3. In cases where the commissioners of the land-office shall be satisfied that the payments still due on any such contract, exceed the value of the land exclusive of improvements made by the purchaser, and in cases where tenants have occupied any part of such escheated lands, by the permission of the person last seized, or of any person from whom his title is derived, with a view to the purchase thereof, the said commissioners shall cause such land to be appraised, and shall sell the same to the person who may have made such contract, or to the tenant who shall have so occupied any part of such land, their representatives or assigns, for the appraised value of such land, exclusive of improvements, upon such person or tenant complying with the provisions of this act.

Application when to be made. § 4. Application for the benefits of the provisions of this act, shall be made by the persons entitled thereto, within one year after the land in respect to which such application shall be made, shall have been reported by the attorney-general, to the commissioners of the land-office, as having been recovered.

First payments. § 5. When the amount due on any contract shall have been ascertained, and when the appraised value of any land shall have been obtained as herein provided, the applicants for the benefit of this act, shall, within such time as the commissioners of the land-office shall direct, pay into the treasury of this state, twenty-five per cent of the amount due on any such contract, or of the appraised value of such land, as the case may be, and execute their penal obligations respectively, for the payment of the residue of such amount, or of such appraised value, to the people of this state, in six equal annual payments, with interest at the rate of six per cent.

Surveyor-general to give certificate of sale. § 6. On such payment being made, and such obligation being delivered to the surveyor-general, he shall give to such purchaser a certificate similar to that required to be given by the third article of title fifth of the ninth chapter and first part of the Revised Statutes, to purchasers of unappropriated lands; which certificate shall confer on such purchaser, his representatives and assigns, the rights in the said article specified, subject to the limitations and conditions therein mentioned, in respect to the sale of unappropriated lands.

66 Barb., 374.

Agents. § 7. The commissioners of the land-office may employ an agent to explore any lands supposed to be escheated, and to collect evidence in relation to such escheat; and the expenses incurred therein shall be paid out of the avails of escheated lands, upon being audited by the commissioners; but such expenses shall not exceed the sum of five hundred dollars in any one year; and any expenses already incurred in the employment of such agent, in relation to lands escheated by the death of John G. Leake, not exceeding three hundred dollars, shall be paid in like manner.

Costs. § 8. In case where lands escheated have been or shall be recovered in suits against tenants in possession of such lands, who would be entitled to the benefits of the provisions of this act, and such tenants shall not have contested the recovery by this state, they shall not be liable to pay the costs of such suits; but the costs and charges of the attorney-general therein, and also his costs and charges in conducting proceedings for the recovery of lands escheated against unknown owners or claimants, where such lands shall be actually recovered, for the payment of which no provision is made by law, shall be paid out of the avails of escheated lands, on the warrant of the comptroller.

L. 1834, Chap. 37 — An act to amend the act concerning escheats.

[The act referred to in § 1 of this act was repealed by L. 1845, ch. 115, § 14; and it would seem that the repeal necessarily repealed this act by implication; but the editor has inserted this act, leaving its effect and applicability to be determined by other authority.]

Commissioners of land-office may grant without naturalization. SECTION 1. The commissioners of the land-office may grant releases under the fifteenth section of the act entitled "An act concerning escheats," passed April 29, 1833, in all cases where the alien through whom the title has passed was a resident of the United States, although the alien may not have filed such deposition or taken such incipient measures as are mentioned in the twelfth section of said act.

3 N. Y., 299.

Amount to be paid. § 2. Upon the execution of any release under the foregoing section, the commissioners shall require payment or security, pursuant to the directions of said act, of a sum not less than one-fortieth part of the ascertained value of the lands released; subject, however, to the provisions of the nineteenth section of said act.

Debts may be deducted. § 3. In ascertaining the amount to be paid or secured on granting releases, under the first section of the act hereby amended, the commissioners may deduct from the ascertained value of the land the debts which, under the fifth section of the act, would be a charge on the grantee of the lands released.

TITLE 13.

TITLE XIII.

Of the Recovery of Forfeited Estates.

[1884]

[This title was repealed by L. 1880, ch. 245, having been superseded by §§ 1977-1982 of the Code of Civil Procedure.]

